
REMEDIAL SITE ASSESSMENT DECISION – EPA Region 05

Site Name: VESSEL SLIPS ADJACENT TO WISCONSIN STEEL WORKS

Alias(es):

City: CHICAGO

County or Parish: COOK

State: IL

Refer to Report Dated: 03/06/2015

EPA ID: ILN000508208

Report Developed By: STATE

State ID:

Report Type: Site Reassessment (00X) #001

- ☒ 1. Further Remedial Site Assessment Under CERCLA (Superfund) is not required because:
NFRAP-Site does not qualify for the NPL based on existing information

☐ 2. Further Assessment Needed Under CERCLA.

☐ 3. Remedial study/cleanup needed.

Decision/Rationale:

The U.S. Environmental Protection Agency (EPA) has determined that no further remedial action by the Federal Superfund program is warranted at the referenced site, at this time. The basis for the no further remedial action planned (NFRAP) determination is provided in the attached document. A NFRAP designation means that no additional remedial steps under the Federal Superfund program will be taken at the site unless new information warranting further Superfund consideration or conditions not previously known to EPA regarding the site are disclosed. In accordance with EPA's decision regarding the tracking of NFRAP sites, the referenced site may be removed from the CERCLIS database and placed in a separate archival database as a historical record if no further Superfund interest is warranted. Archived sites may be returned to the CERCLIS site inventory if new information necessitating further Superfund consideration is discovered.

Decision/Rationale (Continued):

Site Decision Made By: Patrick Hamblin, NPL Coordinator

Signature: Don M. Brann for PM

Date: 04/07/2015

LPC# 0316485097 Cook County
Vessel Slips - Adjacent to WSW - Chicago
ILN 000508208
SF/HRS

Site Reassessment

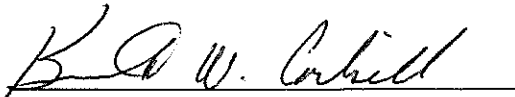


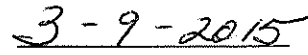
Prepared by:
Office of Site Evaluation
Division of Remediation Management
Bureau of Land

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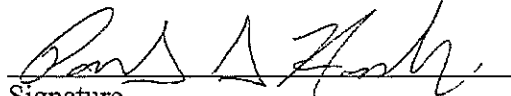
Title: CERCLA Site Re-Assessment for Vessel Slips Adjacent to Wisconsin Steel Works

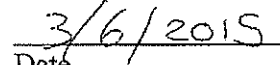
Preparer: Kenneth W. Corkill Project Manager, Office of Site Evaluation,
Illinois Environmental Protection Agency


Signature


Date

Approval: Patrick Hamblin, NPL Coordinator, United States Environmental
Protection Agency, Region 5


Signature


Date

The approval signatures on this page indicate that this document has been authorized for information release to the public through appropriate channels. No other forms or signatures are required to document this information release.

SITE REASSESSMENT

for:

**VESSEL SLIPS ADJACENT TO
WISCONSIN STEEL WORKS**

CHICAGO, ILLINOIS

ILN 000508208

**PREPARED BY:
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY
BUREAU OF LAND
REMEDIAL PROJECT MANAGEMENT SECTION
OFFICE OF SITE EVALUATION**

March 10, 2015

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Phase I Risk Assessment Report
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1.0 Introduction

On January 15, 2013 the Illinois Environmental Protection Agency's (IEPA) Office of Site Evaluation (OSE) was tasked by the Region V Offices of United States Environmental Protection Agency (U.S. EPA) to conduct a Site Reassessment of the Vessel Slips Adjacent to the Wisconsin Steel Works (WSW) (ILN000508208) located at 2701 East 106th Street, Chicago, Illinois in Cook County (Figure 1).

The current owner of the WSW property, as of October 15, 2010, is Asphalt Operating Services LLC, Bartlett, Illinois (AOS). Navistar Incorporated (Navistar), formerly International Harvester, was the prior owner. The Site Reassessment addresses only the two mooring or vessel slips, the North Slip (formerly known as the South Dearing Slip) and the South Slip, associated with the former WSW. The vessel slips were part of the 110 acre property known as the Wisconsin Steel Works, from 1901 to 1980 (Figure 2 & 3).

U.S. EPA authorized a Site Reassessment to be conducted to determine the current status of the two vessel slips. This Site Reassessment will consist of an evaluation of recent information to determine if further Superfund investigation is warranted. The reassessment will supplement previous assessment work, and is not intended to replace previous CERCLA assessments.

The Site Reassessment is designed to provide necessary information that will help determine if the site qualifies for possible inclusion on the National Priorities List, or should receive a No Further Remedial Action Planned (NFRAP) designation. At the end of the reassessment process the author will recommend that the site may be given a NFRAP designation, receive further Superfund investigation, or be referred to another state or federal clean-up program. The Site Reassessment is performed under the authority of the

Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) commonly known as Superfund.

The Vessel Slips site was placed on the Comprehensive Environmental Response, Compensation, and Liability Information System (CERLCIS) in August 2000. In October 2001, Illinois EPA completed a Preliminary Assessment of the site which included sampling. This Site Reassessment Report will describe current site conditions and illustrate how or if the site has changed since the initial CERCLA Preliminary Assessment. This report will contain a review of existing information to determine site history, current site conditions, and evaluate analytical data that may exist on the site. The Site Reassessment will also support emergency response or time-critical removal activities if it is determined that they are warranted.

2.0 Site Description and History

2.1 Site Description

The Vessel slips access the Calumet River and are surrounded on the land side by the former WSW property. The WSW property is located in an industrialized area in the southeastern region of Chicago, Illinois in Section 7 and 18, Township 37 North, Range 15 East of the Third Principal Meridian in Hyde Park Township, Cook County Illinois. Specifically the center of the North Slip can be found at latitude 41.696747, longitude -87.556358 and the center of the South Slip can be found at latitude 41.693989, longitude -87.555006 (Figure 4). This property is within the Corporate Limits of the City of Chicago. The North Slip is approximately 4.1 acres; the South Slip is approximately 4.77 acres.

The North Slip is currently being used for temporary mooring of barges. No loading or unloading activities are currently occurring. All drains and outfalls from the former WSW facility to the North Slip were sealed in the mid 1990's by Navistar's environmental consultant Environmental Resources Management (ERM). The North Slip is surrounded by industrial property, bounded on the east by the Calumet River, to the north by the North Tract Site of WSW, to the west and south by the (SPA) Carve Out Site of WSW, and to the south by the Coke Plant Site of WSW. The slip is constructed of vertical steel sheet piling and concrete walls with a visible portion of approximately 10 feet from land surface level to water surface. Water depth within the slip is approximately 10 feet, at a minimum, toward the west end and 26 feet at the Calumet River depending on river stage. The slip and immediate surrounding area are not used in ways that encourage recreational exposure to sediments, water, and water borne wildlife. The former WSW property is secured and the public is not permitted to access the property.

The South Slip was remediated in 2013 by Navistar's environmental consultant ARCADIS U.S., Inc., and is currently being used for barge mooring. A National Pollutant Discharge Elimination System permitted outfall was formerly present at the west end wall of the South Slip which received non-contact cooling water from the former Acme Steel plant southwest of the former WSW facility. All storm drains and outfalls from the WSW facility as well as the Acme Steel outfall to the South Slip were sealed in the mid 1990's by Navistar's environmental consultant ERM-North Central. The South Slip, just as the North Slip, is surrounded by industrial property, bounded on the north by the Coke Plant Area of the WSW, on the west by the Steel Production Area of WSW, on the south by a rail yard, and on the east by the Calumet River. The slip is constructed of vertical steel sheet piling and concrete walls on the north and west sides of the slip with a visible portion of approximately 10 feet from land surface level to water surface. The south side of this slip is constructed of steel sheet piling, timber pilings, timber piers, cobble size rock, and concrete. Water depth is approximately three to four feet at the west end and approximately 26 feet at the entrance of the slip at the Calumet River depending on river stage. The slip and immediate surrounding area are not used in ways that encourage recreational exposure to sediments, water, and aquatic wildlife. The former WSW property is secured and the public is not permitted to access the property.

Geology in both slips consist of fine sediment ranging in thickness from five to fourteen feet overlying hard clay which extends to a depth of approximately forty feet beneath the sediment.

The former WSW property, and both slips, are situated in a medium to heavy industrial area specifically within the Calumet River corridor with residential neighborhoods immediately beyond the corridor. Some neighborhoods are immediately adjacent to main thoroughfares or

railroad lines which separate industrial operations from residences. Residential properties are located within 395 feet west of the North Slip and 1425 feet northwest of the South Slip. The closest occupied structure from the North Slip is a residence located approximately 395 feet west. The closest occupied structure from the South Slip is a residence located approximately 1425 feet northwest. The nearest business from the North Slip with workers present is approximately 330 feet west. The nearest business from the South Slip with workers present to the South Slip is approximately 835 feet south. No schools or daycare facilities are within 200 feet of either of the slips. Within four miles of the slips, land use consists primarily of residential and manufacturing and light to heavy industrial, with commercial/retail scattered throughout. Three grade schools and one high school are within one mile (5280 feet) of the slips. These schools are located north, northwest, and southeast of the slips at a distance between one-quarter mile (1320 feet) and one mile.

The surface water runoff route is not described for the slips as they are the surface water. The slips are connected to the Calumet River but were reported by United States Fish and Wildlife Service during their July 1993 sampling event to have zero flow. However, movement of water into and out of the slips may occur on a limited basis as river level changes.

The Illinois State Geological Survey (ISGS) indicates geology of the area at and near the slips consists of unconsolidated lake sediment and glacial till overlying Silurian dolomite bedrock. The bedrock surface is approximately 65 feet below ground surface beneath the former WSW and the slips and slopes toward the east at approximately 5 feet per mile. Deposits overlying the bedrock generally consist of two till members of the Wedron Formation. The lower member, the Lemont Drift, is approximately 15 feet thick beneath the slips. The upper member, the Wadsworth Till, is approximately 40 feet thick beneath the slips. Both units are described as

gray silty clays with traces of sand and gravel. The specific direction of groundwater flow near or beneath the slips and in the surrounding area is difficult to determine due to the variety of fill material and decades of intense human activity. The Illinois State Water Survey (ISWS) has determined that the general direction of flow is in a radial pattern toward both Lake Michigan and Lake Calumet. According to ISGS and ISWS information, depth to groundwater in ISGS test wells finished in the drift and till, in the area near the slips, is approximately 35 feet below ground surface. Depth to groundwater in wells finished in the shallow dolomite can be as shallow as 60 feet below ground surface.

According to the ISGS and the ISWS, all area residents and businesses obtain their drinking water from the City of Chicago which utilizes Lake Michigan as the sole source of drinking water for the metropolitan area. Surface water intakes are located in cribs placed approximately two miles from shore in Lake Michigan. Water is pumped to the main filtration plant north of Navy Pier prior to distribution to the metropolitan water systems.

2.2 Operational History

The WSW property has been the location of steel production from 1875 to 1980. Beginning in 1875 Brown Iron and Steel Company was the first of several occupants on the former WSW property. During the next thirty years several different companies operated steel related activities on the property. In 1902 International Harvester began operating the steel mill. In 1917 the facility became known as Wisconsin Steel Works of International Harvester. Operations were expanded during the 1930's to become a fully integrated steel manufacturing facility and by 1966, over one million tons of steel were produced by the mill. The mill was sold in 1980, with the U.S. Department of Commerce (USDC) providing an \$11 million loan to the

new owner. In 1981, the Wisconsin Steel Trust was formed which purchased the assets of WSW. In 1982, all operations on the property ceased when the owner filed bankruptcy. In 1984, Cuyahoga Equipment Corporation began demolition of the WSW facility. The Wisconsin Steel Trust assumed responsibility of the facility until 1996. In 1996 International Harvester (Navistar) assumed ownership and responsibility for the facility. Subsequently the plant was razed in anticipation of developing the property for alternative commercial uses. The current owner, as of October 2010, is Asphalt Operating Systems. The WSW is located in an area zoned “industrial/commercial” and is situated in a mixed high density residential, commercial, and industrial area (Figure 3). The WSW property is located adjacent to the Calumet River and contains the two barge slips. Both slips were historically utilized for shipping raw materials to the former WSW and steel products from the facility.

The operational history detailed in this section primarily covers the WSW facility as a whole, however, the two barge mooring slips are being assessed independently for this Site Reassessment.

2.3 CERCLA Investigative History

The Vessel Slips Adjacent to WSW was placed on the Comprehensive Environmental Response, Compensation, and Liability Information System (CERLCIS) in August 2000 as a result of a petition by members of the South Deering Community to Illinois EPA to conduct a Preliminary Assessment of the suspected release of a hazardous substance, pollutant, or contaminant at the slips. Suspected threats posed by the vessel slips were the potential for adverse effects to human health and the ecological community from the various contaminants introduced by the steel mill operations for approximately 105 years. Various contaminants of

concern (COCs) potentially in the slips were volatile and semi-volatile organic compounds, PCBs, and inorganic analytes. PCBs are the main COCs and the only compound evaluated because they are the only compounds that are persistent, bioaccumulative, associated with previous site operations, and present in concentrations greater than background in portions of the slips.

The following investigations have occurred to determine the nature and extent of contaminants on each slip and nearby.

United States Fish and Wildlife Service - Ecological Study and Impact Assessment at the WSW Site (1994)

ERM - North Central – Surface Water and Sediment Sampling of the Calumet River by Illinois EPA (1996) – Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Expanded Site Inspection Report (1996)

United States Army Corp of Engineers - Sediment Sample Results from Sampling of the Calumet River (1999 and 2000)

Illinois EPA – CERCLA preliminary Assessment (2001)

Illinois EPA – Acme Steel Coke Plant Combined Assessment (2006)

ARCADIS – Phase I Environmental Assessment (2006)

ARCADIS on behalf of Navistar, Inc. – Phase I Risk Assessment (2009)

Please see a summary of these investigations in Attachment A, as well as in the following two sections of this report.

3.0 Other Cleanup Authority Activities

In May 2006, both Vessel Slips were given a State-Lead Other Cleanup Authority designation and were subsequently enrolled in the Illinois EPA Site Remediation Program (SRP). Site investigation of the slips indicated both slips contained COC, including semi-volatile organic compounds, PCBs, and inorganic analytes in sediments in concentrations above Tier I Industrial/Commercial remediation objectives. Significantly higher concentrations were present in the South Slip than the North. No surface water samples from either slip exceeded applicable surface water criteria. Various investigations and risk assessments were completed by ARCADIS on behalf of Navistar, and submitted to Illinois EPA for review and comment, with the ultimate goal of Illinois EPA issuing individual Comprehensive No Further Remediation (NFR) letters to Navistar for the North Slip and South Slip. See Attachment A for a summary of the risk assessments and sequence of review by Illinois EPA toward approval of the assessments.

A risk assessment of the North Slip concluded that it does not pose an unacceptable risk to human or ecological receptors. The Risk Assessment was approved by IEPA/TAU on January 25, 2011. No active removal or remedial action was completed. A comprehensive NFR Letter was issued for the North Slip on December 22, 2011. See Attachment B for the North Slip NFR Letter.

A risk assessment of the South Slip concluded that the slip posed minimal risk to human receptors, but did pose an unacceptable risk to ecological receptors and required remedial action. The Risk Assessment was approved by IEPA/TAU on April 26, 2011. Various remedial options were considered and evaluated. The Remedial Action Plan (RAP) chosen and developed recommended installation of a one foot organically amended sand cap overlain by six inches of

two inch armoring stone. The final RAP was approved by Illinois EPA on August 29, 2012.

Permits for the remedial action were issued by USACOE, City of Chicago, Illinois Department of Natural Resources, and Illinois EPA. The enhanced sand layer was installed by direct slurry injection in three inch lifts. Stone placement was completed by belt driven conveyer. A total of approximately seven acres was covered by the alternate engineered barrier. Installation was completed September, 2013. A comprehensive NFR Letter was issued for the South Slip on December 20, 2014. See Attachment B for the South Slip NFR Letter.

4.0 Summary and Conclusions

On December 18, 1991 (amended April 6, 1995) a Superfund Memorandum of Agreement (SMOA) was signed between Illinois EPA and U.S. EPA Region 5. The SMOA states that if a site has been remediated or given a no-action determination under a state cleanup program, the site will not be expected to require further response action. U.S. EPA Region 5 will not plan or anticipate any federal response action under Superfund law unless the site poses an imminent threat or emergency situation. A copy of the SMOA can be found in Attachment C.

The Vessel Slips were placed on CERCLIS due to concern of potential contamination posing adverse effects to human health and the ecological community in each slip. Numerous investigations as well as risk assessments have been completed pertaining to final determination of remediation of the slips.

A risk assessment of the North Slip concluded that it does not pose an unacceptable risk to human or ecological receptors. The Risk Assessment was approved by IEPA/TAU on January 25, 2011. No active removal or remedial action completed. A comprehensive NFR Letter was issued for the North Slip on December 22, 2011.

A risk assessment of the South Slip concluded that the slip posed minimal risk to human receptors, but did pose an unacceptable risk to ecological receptors and required remedial action. The Risk Assessment was approved by IEPA/TAU on April 26, 2011. The Remedial Action Plan developed and chosen was approved by Illinois EPA on August 29, 2012. Installation of the alternative engineered barrier was completed September, 2013. A comprehensive NFR Letter was issued for the South Slip on December 20, 2014.

FIGURES



Vessel Slips Adjacent to
Wisconsin Steel Works
Site Location

Figure 1



Source: Esri, DigitalGlobe, GeoEye, Earthstar, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community

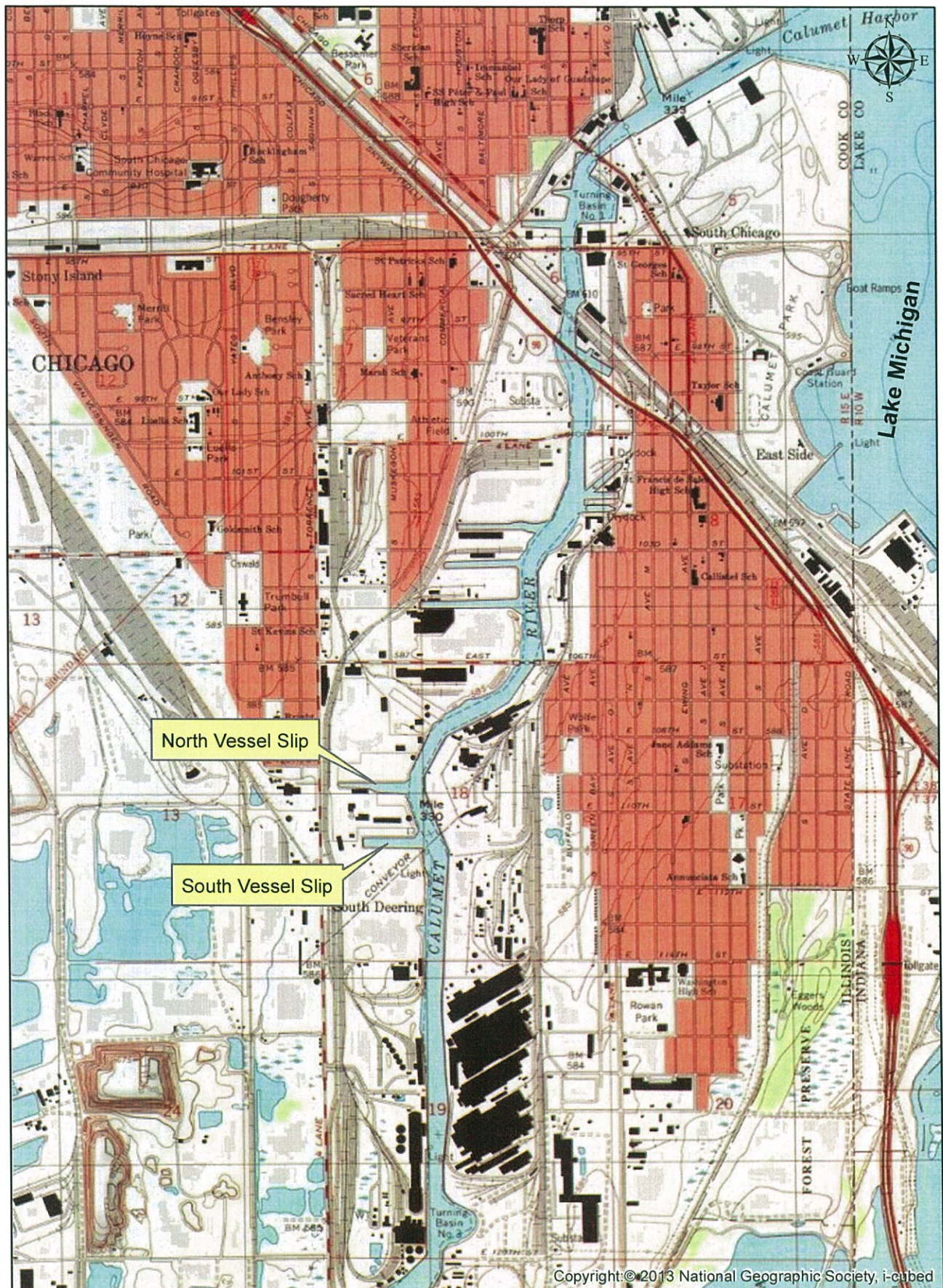
Vessel Slips and Former Wisconsin Steel Works Property

Figure 2



North and South Vessel Slips

Figure 3

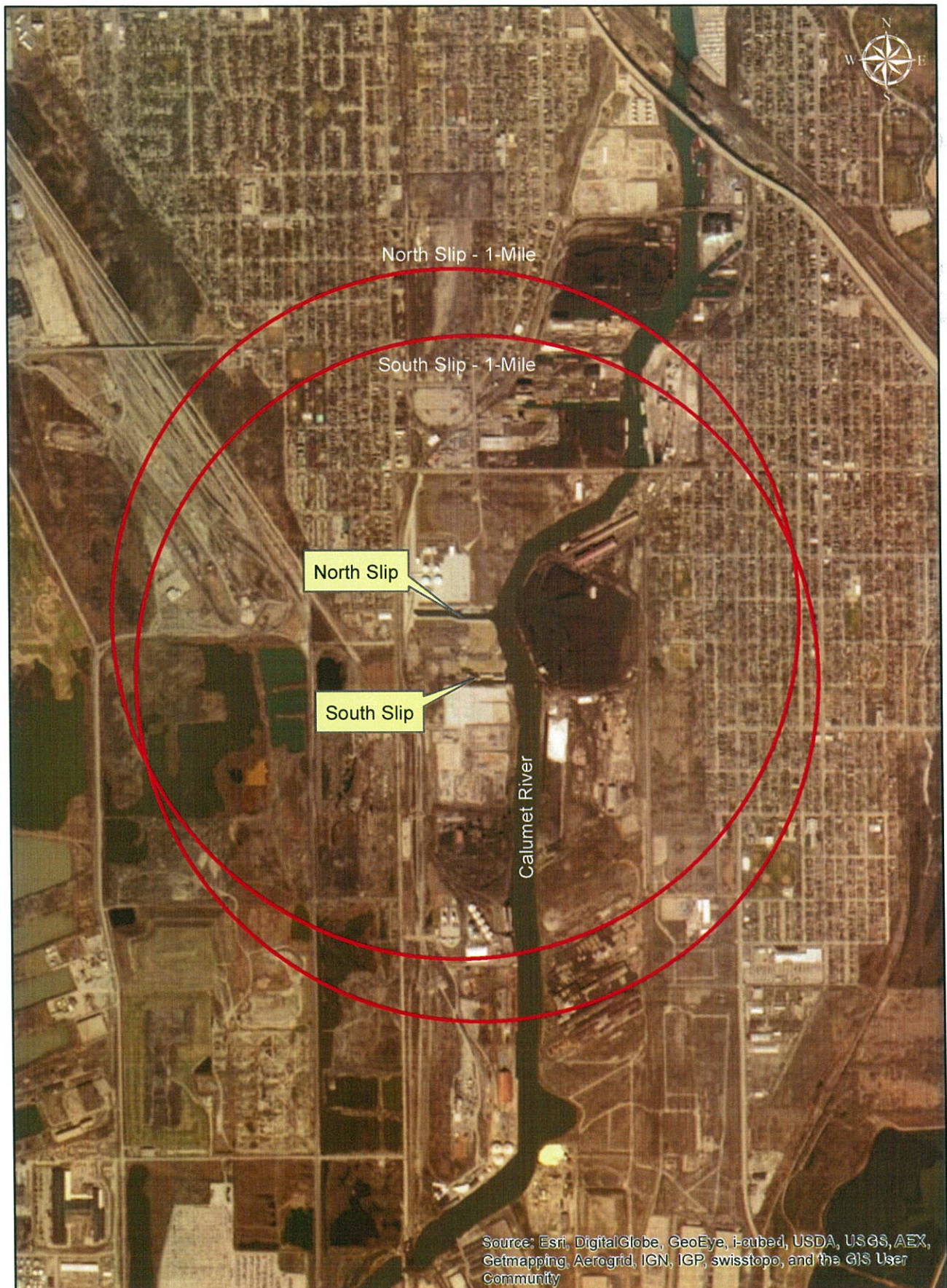


Vessel Slips Topographic Map

Figure 4

APPENDIX A

4 - Mile Radius Map



Vessel Slips - Adjacent to WSW

1-Mile Map

APPENDIX B

15 – Mile Surface Water Map



Vessel Slips - Adjacent to WSW

ATTACHMENT A

Navistar, Inc.

Phase I Risk Assessment

North and South Slips
Former Wisconsin Steel Works
Chicago, Illinois

June 2009

ORIGINAL

RECEIVED

JUN 11 2009

IEPA/BOL

RELEASED

JUN 16 2009

REVIEWER MD

Limited foraging habitat exists for piscivorous birds in the shallow portion of the South slip at the Acme Steel outfall. The USFWS reports that the shallow enclosed end of the north slip is used by piscivorous birds and waterfowl (USFWS 1994). Given the distinct lack of aquatic vegetation and benthos, the waterfowl are likely using the North slip primarily for resting. Gulls or other piscivorous birds have been observed foraging for small fish in the South slip and belted kingfishers (*Megasceryle alcyon*) have been observed near the North slip (USFWS 1994). Fish such as alewife (*Alosa pseudogarengus*), white perch (*Morone americanus*), gizzard shad (*Dorosoma cepedianum*), channel catfish (*Ictalurus punctatus*), and common carp (*Cyprinus carpio*) have been observed in the slips.

The water quality in the slips, based on sampling completed in November 2008 (Table 1), is characterized by temperatures between 6.7°C and 8.1°C, dissolved oxygen conditions between 10.0 milligrams per liter (mg/L) and 11.7 mg/L, and slightly basic pH of approximately 8.0 standard pH units. The slips are connected to the Calumet River but were reported to have zero flow during the July 1993 sampling event (USFWS 1994).

The surrounding upland areas are highly disturbed industrial environments that are unlikely to represent desirable wildlife habitat. Lake Calumet, which is located approximately 1.25 miles to the southwest of the Site, represents the most significant habitat resource in the vicinity of the Site.

2.2 Previous Investigations

A review of previous environmental investigations of the slips was conducted as part of a Phase I Environmental Site Assessment (ARCADIS 2006). A summary of these investigations is provided below.

USFWS – Ecological Study and Impact Assessment at the WSW Site (1994)

The USFWS conducted this investigation between July 19 and November 8, 1993 as part of the remedial investigation and feasibility study of the Site. As part of this investigation, the USFWS collected sediment samples for chemical analysis and toxicity testing and whole fish samples for chemical analysis. Aquatic macroinvertebrate samples were collected from the slips for identification. Terrestrial invertebrates (grasshoppers) were collected for chemical analysis from the former main steel plant area adjacent to the slips. Results of terrestrial invertebrate samples are not

described further as they pertain to property located adjacent to the slips and are not exposed to slip-related sediment or surface water.

The results of this investigation concluded that sediments from the slips are acutely toxic and have the potential to cause adverse ecological effects. Additionally, remediation of the barge slip sediments was recommended to protect fish and wildlife resources that nest and migrate through this industrial region. No comparisons of slip conditions to ambient background conditions were made in this report.

ERM-North Central – Surface Water and Sediment Sampling of the Calumet River by Illinois EPA (1996) – Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Expanded Site Inspection Report (1998)

The Illinois EPA collected 10 surface water and 6 sediment samples at the slips and Calumet River in June 5 and 6, 1996. All samples were split with ERM-North Central, acting on behalf of Navistar. An evaluation of the split data sets indicated that the data sets are comparable.

Results from this investigation were similar to those reported by USFWS (1994). However, the analytical results for semi-volatile organic compounds (SVOCs) in samples collected from the center portion of the North slip are significantly higher than the SVOC results obtained in 1994. Organic compounds were generally not detected in surface water samples. Detected inorganic concentrations in slip sediments were generally lower than the average concentrations detected in sediments of the Grand Calumet River, which were included in the ERM report as a reference dataset for comparison purposes. Polycyclic aromatic hydrocarbons (PAHs) in sediment collected from the South slip were detected at higher concentrations than in sediments collected from the North slip.

USACE - Sediment Sample Results from Sampling of the Calumet River (1999 and 2002)

The USACE sampled the Calumet River in 1999 and 2002 as part of dredging activities. Six sediment samples were collected during both the 1999 and 2002 sampling events for a total of 12 samples. Five of the 12 sediment samples were collected upstream of the slips and the remaining 7 samples were collected downstream of the slips. No samples were collected within the slips during these sampling efforts. Analytical results were reported for inorganics, polychlorinated biphenyls (PCBs), and physical characteristics. No comparisons were made to either ecological benchmark or background concentrations and findings have not been

documented in a report. A comparison of this data set to previous sediment data sets collected at the slips indicated that the range of metal concentrations in Calumet River sediments overlapped with the range of concentrations detected at the slips. Maximum detected metals and PCB concentrations were generally higher at the slips than in the Calumet River.

Illinois EPA– CERCLA Preliminary Assessment (2001)

On June 20, 2000, members of the South Deering Community petitioned Illinois EPA to conduct a Preliminary Assessment of the suspected release of a hazardous substance, pollutant, or contaminant at the slips. The purpose of this investigation was to collect information concerning environmental conditions within the slips. The Illinois EPA collected 23 sediment samples from 22 locations on November 13 and 14, 2000. Nine sediment samples (including one duplicate) were collected from the North slip, 7 samples were collected from the South slip, and 7 samples were collected from the Calumet River.

This investigation compared results from the slips to a single “background” sample collected on the Calumet River upstream of the slips. Based on this comparison, SVOC, pesticide, and inorganic contamination was identified in sediment samples collected from the North slip, South slip, and Calumet River adjacent to the slips. The report also stated that varying concentrations of metals, PAHs, and PCBs were detected in sediment samples collected from the North slip. Samples collected from the South slip had higher levels of contamination than those collected in the North slip. A comparison of the results of this investigation to the results of USFWS (1994) and ERM (1996) indicated that results were generally consistent among the three investigations. A notable exception was that ERM (1996) reported that SVOC concentrations were significantly higher than those reported by USFWS (1994). The results of the Preliminary Assessment indicate that SVOC concentrations are more similar to those reported in USFWS (1994) than to those reported in ERM (1996).

Illinois EPA - Acme Steel Coke Plant Combined Assessment (2006)

One sediment sample was collected at the west end of the South slip adjacent to the former Acme Steel Coke Plant as part of an integrated assessment conducted by the Illinois EPA in 2006. The sampling location was at the base of a pipe that reportedly carried process water and non-contact cooling water from the Acme Steel Coke Plant to the South slip. The sample was collected from 4 to 8 inches beneath the sediment

surface with a stainless steel auger and trowel. The field crew reported observing oil bubbles and black silt with a petroleum odor during collection.

Analytical results were compared to ecological benchmarks (Ontario Sediment Benchmark for Lowest Effect Level, USEPA Ecotox Thresholds, or ARCS Effect Concentrations) and background levels. Background levels were based on sediment samples collected upstream of the slips. Several inorganic and organic constituents (PAHs) were detected at concentrations greater than the benchmarks. Of the inorganic constituents detected at levels greater than benchmarks, chromium, manganese, and mercury were detected at concentrations greater than both benchmark and background levels. Low and high molecular weight PAHs were also detected at concentrations greater than benchmark and background concentrations.

2.3 Potential Receptors

Potential receptors within the slips include 1) anglers consuming fish from the slips and 2) fish communities. Angler access to slips is limited by fences and on-Site security to impede trespassing at the Site; therefore anglers have limited access the slips via boat. Additionally, consumption of fish by anglers is limited by a fish consumption advisory that is currently in place for the Lake Michigan and Calumet River systems due to regional PCB contamination. Ecological receptors such as fish have been observed in the slips during previous investigations (USFWS 1994) and were observed during recent field activities in October 2008.

2.4 Chemicals of Potential Environmental Concern

The Great Lakes Water Quality Initiative (40 CFR 1326, Table 6, Subpart A) defines chemicals that are of bioaccumulative concern (Table 2). Pesticides, mercury, and PCBs are chemicals of bioaccumulative concern that have been detected in sediment samples from the slips. Pesticides have been detected at levels similar to background in slips sediment and are not associated with previous Site operations. As such, Illinois EPA previously agreed that pesticides should not be considered COPECs. Mercury is present in slip sediments at concentrations similar to background and is not considered a COPEC. PCBs are the only constituents evaluated in this Phase I RA report because they are the only constituents that are persistent, bioaccumulative, and present at concentrations greater than background in portions of the slips.



11/47606

0316485097
WISCONSIN STEEL
MOORING SLIPS
SR/TECH

Imagine the future

Navistar, Inc.

North Slip

**Remedial Action Completion
Report**

Former Wisconsin Steel Works
Chicago, Illinois

April 2011

ORIGINAL

RELEASED

MAY 08 2011

RECEIVED

RECEIVED

MAY 03 2011

IEPA/BOL

ARCADIS

North Slip Remedial Action Completion Report

Former Wisconsin Steel Works
Chicago, Illinois

Section 2 - Field Activities, Analyses, and Results

Section 3 – Special Conditions

Section 4 – Conclusions

Section 5 – References

Consistent with SRP requirements, ARCADIS is requesting Illinois EPA's review and evaluation of this report by submittal of the DRM-2 Form, included in Appendix B.

2 Field Activities, Analyses, and Results

This section summarizes the site investigation and analysis activities conducted by Navistar subsequent to enrollment in the SRP on March 2, 2006.

Phase I Slips ESA (ARCADIS, October 2006) – The report consisted of a Phase I ESA and an ERA. The Phase I Slips ESA concluded that the North Slip was considered a recognized environmental condition (REC) due to the historic use of the surrounding property for industrial purposes. The ERA incorporated several lines of evidence to conclude that organic compounds and metals are present in the sediments of the North and South Slips at concentrations above regional background and toxicity guidance values, but that significant risk or hazards are not likely to occur to aquatic receptors or piscivorous birds that utilize the Slips for habitat or foraging.

Slips Phase I Risk Assessment (ARCADIS, June 2009) – Site investigation activities were conducted in October and November 2008. Sediment samples were collected from 20 locations for risk assessment and nine baseline samples were collected from the Calumet River to determine background concentrations. The Slips Phase I Risk Assessment consisted of a general screening level approach to estimate human health and ecological risk. Additionally, the Slips Phase I Risk Assessment indicated the ecological risks for the North Slip were similar to background.

Illinois EPA provided comments to the June 2009 Slips Phase I Risk Assessment report in a letter dated August 13, 2009. ARCADIS submitted a response to comments on December 16, 2009. The Illinois EPA responded on April 7, 2010.

North Slip Phase II Risk Assessment (ARCADIS, August 2010) – The North Slip Phase II Risk Assessment expanded on the results presented in Slips Phase I Risk Assessment (ARCADIS, June 2009) and incorporated additional site-specific data, further addressing Illinois EPA comments provided on the Slips Phase I Risk Assessment. The objective of the North Slip Phase II Risk Assessment was to evaluate the potential risks to ecological receptors and humans which could be exposed to COPECs/COCs in North Slip sediment and consisted of an ERA and a screening-level

ARCADIS

North Slip Remedial Action Completion Report

Former Wisconsin Steel Works
Chicago, Illinois

HHRA. The results of the ERA and HHRA evaluations indicated that COPECs/COCs do not pose a potential risk to ecological or human receptors, and that additional risk evaluations or remedial actions are not warranted to address potential risks at the North Slip.

Illinois EPA provided comments to the 2010 North Slip Phase II Risk Assessment report in a letter dated November 4, 2010.

ARCADIS submitted a response to the comments letter on December 2, 2010.

On April 27, 2011, the Illinois EPA approved the 2010 North Slip Phase II Risk Assessment (Appendix C).

3 Special Conditions

There are no institutional controls or engineered barriers proposed for the North Slip. After an NFR letter is issued to Navistar, the letter will be recorded on the property deed through the Cook County Recorder's Office.

4 Conclusions

ARCADIS, on behalf of Navistar, requests that Illinois EPA issue a Comprehensive NFR letter for the North Slip of the former WSW Site. This RACR summarizes the entirety of environmental activities at the North Slip. As described in this report, Navistar has completed the requirements of the SRP and has demonstrated that the North Slip does not present an unacceptable risk to human health or the environment. The DRM-2 form, included as Appendix B, includes the Professional Engineer's Certification as to the accuracy and completeness of this report.

The Site Base Map, legal description and Property Identification Number (PIN) are included in Appendix A.

ATTACHMENT B



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 • (217) 782-2829

PAT QUINN, GOVERNOR

LISA BONNETT, INTERIM DIRECTOR

(217) 782-6761

December 22, 2011

CERTIFIED MAIL

7009 3410 0002 3749 1576

Ms. Edith Ardiente, M.S., P.E., QEP
Vice President, Environmental and Energy Affairs
Navistar, Inc.
4201 Winfield Road
P.O. Box 1488
Warrenville, Illinois 60555

Re: 0316485097—Cook County
Wisconsin Steel Mooring Slips-North Slip/Chicago
Site Remediation Program/Technical Reports
No Further Remediation Letter

Dear Ms. Ardiente:

The *North Slip Remedial Action Completion Report, Former Wisconsin Steelworks, Chicago, Illinois*, Log Number 11-47606, as prepared by ARCADIS, Inc. for the above referenced Remediation Site, has been reviewed by the Illinois Environmental Protection Agency ("Illinois EPA") and demonstrates that the remedial action was completed in accordance with the 35 Illinois Administrative Codes 740 and 742.

The Remediation Site, consisting of 4.1 acres, is located at 11001 South Torrence Avenue, Chicago, Illinois. Pursuant to Section 58.10 of the Illinois Environmental Protection Act ("Act") (415 ILCS 5/1 et seq.), your request for a no further remediation determination is granted under the conditions and terms specified in this letter. The Remediation Applicant, as identified on the Illinois EPA's Site Remediation Program DRM-1 Form, is Navistar, Inc.

This comprehensive No Further Remediation Letter ("Letter") signifies a release from further responsibilities under the Act for the performance of the approved remedial action. This Letter shall be considered prima facie evidence that the Remediation Site described in the attached Illinois EPA Site Remediation Program Environmental Notice and shown in the attached Site Base Map does not constitute a threat to human health and the environment and does not require further remediation under the Act if utilized in accordance with the terms of this Letter.

IEPA - DIVISION OF RECORDS MANAGEMENT
RELEASE

JAN 09 2012

REVIEWER NAME

4302 N. Main St., Rockford, IL 61103 (815)987-7760
595 S. State, Elgin, IL 60123 (847)608-3131
2125 S. First St., Champaign, IL 61820 (217)278-5800
2009 Mall St., Collinsville, IL 62234 (618)346-5120

9511 Harrison St., Des Plaines, IL 60016 (847)294-4000
5407 N. University St., Arbor 113, Peoria, IL 61614 (309)693-5462
100 W. Main St., Suite 116, Marion, IL 62959 (618)993-7200
100 W. Randolph, Suite 11-300, Chicago, IL 60601 (312)814-6026

Conditions and Terms of Approval

Level of Remediation and Land Use Limitations

- 1) The Remediation Site is approved for Industrial/Commercial land use.
- 2) The land use specified in this Letter may be revised if:
 - a) Further investigation or remedial action has been conducted that documents the attainment of objectives appropriate for the new land use; and
 - b) A new Letter is obtained and recorded in accordance with Title XVII of the Act and regulations adopted thereunder.

Preventive, Engineering, and Institutional Controls

- 3) No Preventive or Engineering Controls are required for this Remediation Site.

Other Terms

- 4) Areas outside the Remediation Site boundaries or specific engineered barrier locations, as shown in the Site Base Map, are not subject to any other institutional or engineered barrier controls.
- 5) Where the Remediation Applicant is not the sole owner of the Remediation Site, the Remediation Applicant shall complete the attached *Property Owner Certification of the No Further Remediation Letter under the Site Remediation Program* Form. This certification, by original signature of each property owner, or the authorized agent of the owner(s), of the Remediation Site or any portion thereof who is not a Remediation Applicant shall be recorded along with this Letter.
- 6) Further information regarding this Remediation Site can be obtained through a written request under the Freedom of Information Act (5 ILCS 140) to:

Illinois Environmental Protection Agency
Attn: Freedom of Information Act Officer
Bureau of Land-#24
1021 North Grand Avenue East
Post Office Box 19276
Springfield, IL 62794-9276

- 7) Pursuant to Section 58.10(f) of the Act (415 ILCS 5/58.10(f)), should the Illinois EPA seek to void this Letter, the Illinois EPA shall provide notice to the current title holder and to the Remediation Applicant at the last known address. The notice shall specify the cause for the voidance, explain the provisions for appeal, and describe the facts in support of this cause. Specific acts or omissions that may result in the voidance of the Letter under Sections 58.10(e)(1)-(7) of the Act (415 ILCS 5/58.10(e)(1)-(7)) include, but shall not be limited to:
 - a) Any violation of institutional controls or the designated land use restrictions;

- b) The failure to operate and maintain preventive or engineering controls or to comply with any applicable groundwater monitoring plan;
 - c) The disturbance or removal of contamination that has been left in-place in accordance with the Remedial Action Plan. Access to soil contamination may be allowed if, during and after any access, public health and the environment are protected consistent with the Remedial Action Plan;
 - d) The failure to comply with the recording requirements for this Letter;
 - e) Obtaining the Letter by fraud or misrepresentation;
 - f) Subsequent discovery of contaminants, not identified as part of the investigative or remedial activities upon which the issuance of the Letter was based, that pose a threat to human health or the environment;
 - g) The failure to pay the No Further Remediation Assessment Fee within forty-five (45) days after receiving a request for payment from the Illinois EPA;
 - h) The failure to pay in full the applicable fees under the Review and Evaluation Services Agreement within forty-five (45) days after receiving a request for payment from the Illinois EPA.
- 8) Pursuant to Section 58.10(d) of the Act, this Letter shall apply in favor of the following persons:
- a) Navistar, Inc.;
 - b) The owner and operator of the Remediation Site;
 - c) Any parent corporation or subsidiary of the owner of the Remediation Site;
 - d) Any co-owner, either by joint-tenancy, right of survivorship, or any other party sharing a relationship with the owner of the Remediation Site;
 - e) Any holder of a beneficial interest of a land trust or inter vivos trust, whether revocable or irrevocable, involving the Remediation Site;
 - f) Any mortgagee or trustee of a deed of trust of the owner of the Remediation Site or any assignee, transferee, or any successor-in-interest thereto;
 - g) Any successor-in-interest of the owner of the Remediation Site;
 - h) Any transferee of the owner of the Remediation Site whether the transfer was by sale, bankruptcy proceeding, partition, dissolution of marriage, settlement or adjudication of any civil action, charitable gift, or bequest;
 - i) Any heir or devisee of the owner of the Remediation Site;

- j) Any financial institution, as that term is defined in Section 2 of the Illinois Banking Act and to include the Illinois Housing Development Authority, that has acquired the ownership, operation, management, or control of the Remediation Site through foreclosure or under the terms of a security interest held by the financial institution, under the terms of an extension of credit made by the financial institution, or any successor-in-interest thereto; or
 - k) In the case of a fiduciary (other than a land trustee), the estate, trust estate, or other interest in property held in a fiduciary capacity, and a trustee, executor, administrator, guardian, receiver, conservator, or other person who holds the remediated site in a fiduciary capacity, or a transferee of such party.
- 9) This letter, including all attachments, must be recorded as a single instrument within forty-five (45) days of receipt with the Office of the Recorder of Cook County. For recording purposes, the Illinois EPA Site Remediation Program Environmental Notice attached to this Letter should be the first page of the instrument filed. This Letter shall not be effective until officially recorded by the Office of the Recorder of Cook County in accordance with Illinois law so that it forms a permanent part of the chain of title for the Wisconsin Steelworks-Northeast Parcel property.
- 10) Within thirty (30) days of this Letter being recorded by the Office of the Recorder of Cook County, a certified copy of this Letter, as recorded, shall be obtained and submitted to the Illinois EPA to:

Robert E. O'Hara
Illinois Environmental Protection Agency
Bureau of Land/RPMS
1021 North Grand Avenue East
Post Office Box 19276
Springfield, IL 62794-9276

- 11) In accordance with Section 58.10(g) of the Act, a No Further Remediation Assessment Fee based on the costs incurred for the Remediation Site by the Illinois EPA for review and evaluation services will be applied in addition to the fees applicable under the Review and Evaluation Services Agreement. Request for payment of the No Further Remediation Assessment Fee will be included with the billing statement.

If you have any questions regarding the Wisconsin Steel Mooring Slips-North Slip Parcel property, you may contact the Illinois EPA project manager, Todd Gross at 217/782-6761.

Sincerely,



Joyce L. Munie, P.E., Manager
Remedial Project Management Section
Division of Remediation Management
Bureau of Land

Attachments: Illinois EPA Site Remediation Program Environmental Notice
Site Base Map
Property Owner Certification of No Further Remediation Letter under the Site
Remediation Program Form

cc: Mr. Greg Vanderlaan
WSW Project Manager
ARCADIS, Inc.
10 S. Riverside Plaza, Suite 1900
Chicago, Illinois 60606

Mr. Al Meitl
AOS Chicago
1603 South 9th Street
St. Louis, Missouri 63104

Commissioner
Chicago Department of Environment
25th Floor
30 North LaSalle Street
Chicago, Illinois 60602-2575

PREPARED BY:

Name: Ms. Edith Ardiente, M.S., P. E., Q.E.P.
Vice President, Environmental and Energy Affairs
Navistar, Inc.

Address: 4201 Winfield Road
Warrenville, Illinois 60555

RETURN TO:

Name: Ms. Edith Ardiente, M.S., P. E., Q.E.P.
Vice President, Environmental and Energy Affairs
Navistar, Inc.

Address: 4201 Winfield Road
Warrenville, Illinois 60555

THE ABOVE SPACE FOR RECORDER'S OFFICE

This Environmental No Further Remediation Letter must be submitted by the remediation applicant within 45 days of its receipt, to the Office of the Recorder of Cook County.

Illinois State EPA Number: 0316485097

Navistar, Inc., the Remediation Applicant, whose address is 4201 Winfield Road, Warrenville, Illinois has performed investigative and/or remedial activities for the remediation site depicted on the attached Site Base Map and identified by the following:

1. Legal description or Reference to a Plat Showing the Boundaries: Part of the South Half of the Northwest Quarter of Section 18, Township 37 North, Range 15 East of the Third Principal Meridian, in the City of Chicago, Illinois, more particularly described as follows:

Commencing at the Northwest Corner of said Section, 18, thence South 01 degrees, 04 minutes, 06 seconds East (this and all subsequent bearings based on the Illinois Coordinate System of 1983, East Zone), 2123.48 feet along the west line of said Section 18 to the intersection of the westerly extension of the north line of the South Deering Slip; thence North 89 degrees, 40 minutes, 15 seconds East, 280.52 feet along said westerly extension of the west line of said Slip and the Point of Beginning of this description; thence continuing North 89 degrees, 40 minutes, 15 seconds East, 1340.64 feet along said north line to the westerly line of the Calumet River as established by the United States Government Survey recorded in the Recorder's Office of Cook County, Illinois, May 17, 1889, as Document Number 1102284, in Book 39 of Plats at Pages 1 to 9, inclusive; thence South 00 degrees, 55 minutes, 19 seconds West, 155.21 feet along said westerly line of the easterly extension of the eastern most southerly line of said Slip; thence South 89 degrees, 21 minutes, 51 seconds West, 630.64 feet along said extension and said southerly line; thence along the southerly line of said Slip the following three courses: (1) North 71 degrees, 15 minutes, 00 seconds West, 137.88 feet; (2) South 89 degrees, 33 minutes, 25 seconds West, 492.98 feet; (3) North 56 degrees, 34 minutes, 37 seconds West, 99.31 feet to the west line of said Slip; thence North 01 degrees, 04 minutes, 06 seconds West, 59.29 feet to the Point of Beginning.

(Illinois EPA Site Remediation Program Environmental Notice)

2. Common Address: 2701 East 106th Street, Chicago, Illinois
3. Real Estate Tax Index/Parcel Index Number: 26-18-100-017-0000.
4. Remediation Site Owner: Asphalt Operating Services of Chicago, LLC
5. Land Use: Industrial/Commercial
6. Site Investigation: Comprehensive

See NFR letter for other terms.

SITE BASE MAP
0316510002-COOK COUNTY
WISCONSIN STEEL WORKS/CHICAGO
SITE REMEDIATION PROGRAM
PIN 26-18-100-017-0000



NORTH TRACT

REMEDIATION SITE BOUNDARY

1340.64'

NORTH SLIP

59.29'

99.31'

492.98'

137.88'

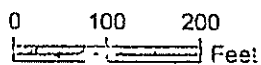
630.64'

155.21'

SPA CARVE OUT

STEEL PRODUCTION AREA

COKE PLANT AREA



GRAPHIC SCALE

FORMER WISCONSIN STEEL WORKS
CHICAGO, ILLINOIS

REMEDIATION SITE BOUNDARY MAP



FIGURE
3

CITY: KELS ENGINEER: AIT DB: MG LD: VE PM: TO S
WSW(COOR351.0019)
GIS: 17: ...SWArcMapMiscNorth_Slip_RemArea_20110324.mxd - 3/28/2011 @ 12:53:50 PM

**PROPERTY OWNER CERTIFICATION OF THE NFR LETTER
UNDER THE SITE REMEDIATION PROGRAM**

Where the Remediation Applicant (RA) is not the sole owner of the remediation site, the RA shall obtain the certification by original signature of each owner, or authorized agent of the owner(s), of the remediation site or any portion thereof who is not an RA. The property owner(s), or the duly authorized agent of the owner(s) must certify, by original signature, the statement appearing below. This certification shall be recorded in accordance with Illinois Administrative Code 740.620.

Include the full legal name, title, the company, the street address, the city, the state, the ZIP code, and the telephone number of all other property owners. Include the site name, street address, city, ZIP code, county, Illinois inventory identification number and real estate tax index/parcel index number.

A duly authorized agent means a person who is authorized by written consent or by law to act on behalf of a property owner including, but not limited to:

1. For corporations, a principal executive officer of at least the level of vice-president;
2. For a sole proprietorship or partnership, the proprietor or a general partner, respectively; and
3. For a municipality, state or other public agency, the head of the agency or ranking elected official.

For multiple property owners, attach additional sheets containing the information described above, along with a signed, dated certification for each. All property owner certifications must be recorded along with the attached NFR letter.

Property Owner Information	
Owner's Name: _____	
Title: _____	
Company: _____	
Street Address: _____	
City: _____ State: _____ Zip Code: _____ Phone: _____	
Site Information	
Site Name: _____	
Site Address: _____	
City: _____ State: _____ Zip Code: _____ County: _____	
Illinois inventory identification number: _____	
Real Estate Tax Index/Parcel Index No. _____	
I hereby certify that I have reviewed the attached No Further Remediation Letter and that I accept the terms and conditions and any land use limitations set forth in the letter.	
Owner's Signature: _____ Date: _____	
SUBSCRIBED AND SWORN TO BEFORE ME this _____ day of _____, 20__	
_____ Notary Public	

The Illinois EPA is authorized to require this information under Sections 415 ILCS 5/58 - 58.12 of the Environmental Protection Act and regulations promulgated thereunder. If the Remediation Applicant is not also the sole owner of the remediation site, this form must be completed by all owners of the remediation site and recorded with the NFR Letter. Failure to do so may void the NFR Letter. This form has been approved by the Forms Management Center. All information submitted to the Site Remediation Program is available to the public except when specifically designated by the Remediation Applicant to be treated confidentially as a trade secret or secret process in accordance with the Illinois Compiled Statutes, Section 7(a) of the Environmental Protection Act, applicable Rules and Regulations of the Illinois Pollution Control Board and applicable Illinois EPA rules and guidelines.

Notice to Remediation Applicant

Please follow these instructions when filing the NFR letter with the County Recorder's Office

Instructions for Filing the NFR Letter

The following documents must be filed:

- A. Body of the NFR Letter (contains appropriate terms and conditions, tables, etc.)
- B. Attachments to NFR letter
 - Illinois EPA Site Remediation Program Environmental Notice (Legal Description and PIN of property)
 - Maps of the site
 - Table A: Regulated Substances of Concern (if applicable.)
 - Property Owner Certification
- C. A copy of the ordinance, if applicable, used to address groundwater contamination

1. Place the Illinois EPA Site Remediation Program Environmental Notice on top of the NFR prior to giving it to the Recorder.
2. If you are not the owner (record title holder) of the property on the date of filing of this NFR, you must attach a **completed** owner's certification form signed by the owner of the property at the time of filing (e.g., if the property recently sold, the new owner must sign).
3. If any of the terms and conditions of the NFR letter references a groundwater ordinance, you must record a copy of the groundwater ordinance with the NFR letter.
4. If any of the terms and conditions of the NFR letter references a highway agreement, you must record the highway agreement if specifically required by the municipality granting the agreement.
5. Within thirty (30) days of this NFR Letter being recorded by the Office of the Recorder of the County in which the property is located, a certified copy of this Letter, as recorded, shall be obtained and submitted to the Illinois EPA to:

Robert E. O'Hara
Illinois Environmental Protection Agency
Bureau of Land/RPMS
1021 North Grand Avenue East
Post Office Box 19276
Springfield, IL 62794-9276

6. **Remove this page from the NFR letter, prior to recording.**

If you have any questions call (217) 782-6761 and speak with the "project manager on-call" in the Site Remediation Program.

U.S. Postal ServiceTM
CERTIFIED MAILTM RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$
Certified Fee	2.80
Return Receipt Fee (Endorsement Required)	2.30
Restricted Delivery Fee (Endorsement Required)	

SPRINGFIELD IL
DEC
Postmark
HARD

Ms. Edith Ardiente, M.S., P.E., QEP
Vice President, Environmental and Energy Affairs
Navistar, Inc.
4201 Winfield Road
P.O. Box 1488
Warrenville, Illinois 60555

PS Form 3800, August 2000

See Reverse for Instructions

0311485097-RRWS

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. #24
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

Ms. Edith Ardiente, M.S., P.E., QEP
Vice President, Environmental and Energy Affairs
Navistar, Inc.
4201 Winfield Road
P.O. Box 1488
Warrenville, Illinois 60555

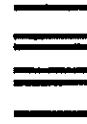
COMPLETE THIS SECTION ON DELIVERY

A. Signature	<input type="checkbox"/> Agent
<input checked="" type="checkbox"/> <i>Edith Ardiente</i>	<input type="checkbox"/> Addressee
B. Received by (Printed Name)	C. Date of Delivery
Edith Ardiente	12-28-11
D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No	
E. address below:	

3. Service Type	<input type="checkbox"/> Express Mail
<input checked="" type="checkbox"/> Certified Mail	<input type="checkbox"/> Return Receipt for Merchandise
<input type="checkbox"/> Registered	<input type="checkbox"/> C.O.D.
<input type="checkbox"/> Insured Mail	
4. Restricted Delivery? (Extra Fee)	<input type="checkbox"/> Yes

2. Article Number
(Transfer from service label)
1609 3410 0002 3749 1576
PS Form 3811, February 2004
Domestic Return Receipt
102595-02-M-1540

UNITED STATES POSTAL SERVICE



FIRST-CLASS MAIL
Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •



**Illinois Environmental
Protection Agency**

P.O. BOX 19276 MAIL CODE #
SPRINGFIELD, IL 62794-9276



14-55839

0316485097
Wisconsin Steel
Mooring Slips
SR/Tech



**RECORDED
NFR**

ARCADIS U.S., Inc.
10 S. Riverside Plaza
Suite 1900
Chicago
Illinois 60606
Tel 312 575 3700
Fax 312 775 9322
www.arcadis-us.com

Mr. Robert E. O'Hara
Illinois Environmental Protection Agency
Bureau of Land/RPMS
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276

Subject:
No Further Remediation Letter
LPC# 0316485097-Cook County
Wisconsin Steel Mooring Slips- South Slip
Site Remediation Program/ Technical Reports
Chicago, Illinois

EPA-DIVISION OF RECORDS MANAGEMENT
RELEASABLE

JAN 31 2014

REVIEWER JKS

ENVIRONMENTAL

Date:
January 16, 2014

Dear Mr. O'Hara:

Enclosed is one copy of the recorded No Further Remediation (NFR) letter (**Enclosure 1**) for the property located near common address 11001 South Torrence Avenue in the City of Chicago, Cook County, Illinois, referred to as the South Slip of the Wisconsin Steel Mooring Slips property. The letter, dated December 20, 2013, was provided to the Cook County Recorder's Office on January 16, 2014, for filing with the property deed.

Contact:
Gregory Vanderlaan

Phone:
312.575.3700

Email:
gregory.vanderlaan
@arcadis-us.com

If you have any questions, please contact me at your convenience.

Our ref:
CI000664.0038

Sincerely,

ARCADIS U.S., Inc.


Gregory A. Vanderlaan
Project Manager

Enclosure (1):

1. Recorded NFR Letter

Copies:
Ferdinand Alido, Navistar, Inc.
Gregory Ciambone, Torrence Holding III, LLC
File

RECEIVED
JAN 29 2014
EPA/BOL



Enclosure 1

Recorded NFR Letter

14-55839

0316485097
Wisconsin Steel/
Moving Slip
SRTech

PREPARED BY:

Name: Mr. Ferdinand Alido
Navistar, Inc.

Address: 2701 Navistar Drive
Lisle, Illinois 60532



Doc#: 1401644000 Fee: \$56.00
RHSP Fee: \$9.00 RPRF Fee: \$1.00
Karen A. Yarbrough
Cook County Recorder of Deeds
Date: 01/16/2014 09:30 AM Pg: 1 of 10

RETURN TO:

Name: Mr. Ferdinand Alido
Navistar, Inc.

Address: 2701 Navistar Drive
Lisle, Illinois 60532

RECORDED
NFR

RECEIVED

THE ABOVE SPACE FOR RECORDER'S OFFICE
JAN 29 2014

IEPA/BOL

This Environmental No Further Remediation Letter must be submitted by the remediation applicant within 45 days of its receipt, to the Office of the Recorder of Cook County.

Illinois State EPA Number: 0316485097

Navistar, Inc., the Remediation Applicant, whose address is 2701 Navistar Drive, Lisle, Illinois 60532, has performed investigative and/or remedial activities for the remediation site depicted on the attached Site Base Map and identified by the following:

1. Legal description or Reference to a Plat Showing the Boundaries:

Parcel 1A-A part of the West Half of Section 18, Township 37 North, Range 15 East of the Third Principal Meridian, in the City of Chicago, Cook County, Illinois, more particularly described as follows: Commencing at Northing: 1832140.08, Easting 1196328.54 of the North line of the Semet Solvay Slip extended Easterly; thence South 89°, 42', 28" East, (this and all subsequent bearings based on the Illinois Coordinate System of 1983, East Zone), 1146.42 feet along said North line to the westerly line of the Calumet River as established by the United States Government Survey recorded in the Recorder's Office of Cook County, May 17, 1889, as document 1102284, in Book 39 of Plots at pages 1 to 9, inclusive (Northing: 1832145.35, Easting: 1197478.69); thence along said westerly line the following course: South 35°33'56" East, 104.57 feet to the North line of the South 778.66 feet of the North Half of the Southwest Quarter of said Section; thence South 89°37'32" West, 1206.55 feet along said line to the East line of Parcel V as described in deed to American National Bank and Trust Company of Chicago, Trust Number 109903-7 recorded as document 92868684 in the said office of the Recorder (Northing: 1831965.75, Easting 1196332.8); thence North 00°27'47" East, 89.88 feet along said East line to the Point of Beginning, containing 2.3 acres, more or less.

Parcel 2-Part of the Southwest Quarter of Section 18, Township 37 North, Range 15 East of the Third Principal Meridian, in the City of Chicago, Cook County, Illinois, more particularly

described as follows: Commencing at the Northwest Corner of said Section 18, thence South 01°04'06" East, (this and all subsequent bearings based on the Illinois Coordinate System of 1983, East Zone), 3877.87 feet along the West line of said Section 18 to the North line of the South 83.00 feet of said Northwest Quarter of the Southwest Quarter; thence North 89°37'12" East 725.37 feet to the East line of Parcel V described in deed to American National Bank and Trust Company of Chicago, as Trustee under Trust Agreement dated November 27, 1989 and known as Trust Number 109903-7, recorded as document 92868684 in the Office of the Recorder of Cook County, Illinois; thence North 00°27'47" West, 695.66 feet to the North line of the South 778.66 feet of the North half of said Southwest Quarter, and the Point of Beginning (Northing: 1831965.75, Easting: 1196332.8) of this description; thence North 89°37'32" East, 1206.55 along said North line to the westerly line of the Calumet River as established by the United States Government Survey recorded in the Recorder's Office of Cook County, May 17, 1889, as document 1102284, in Book 39 of Plots of pages 1 to 9, inclusive; thence South 35°33'56" East, 107.83 feet to the South line of the Semet Solvay Slip extended easterly; thence South 89°56'10" West, 325.27 feet along said South line; thence South 01°27'33" West, 3.25 feet along said South Line; thence South 89°56'10" West 943.20 feet along said South Line to said East line of Parcel V; thence North 00°27'47" West 84.50 feet along said East line to the Point of Beginning, containing 2.474 acres, more or less.

2. Common Address: 11103 Torrence Avenue, Chicago, Illinois 60617
3. Real Estate Tax Index/Parcel Index Numbers: 26-18-100-021-0000 and 26-18-300-025-0000
4. Remediation Site Owner: Torrence Holding III, LLC
5. Land Use: Industrial/Commercial
6. Site Investigation: Comprehensive

See NFR letter for other terms.

**PROPERTY OWNER CERTIFICATION OF THE NFR LETTER
UNDER THE SITE REMEDIATION PROGRAM**

Where the Remediation Applicant (RA) is not the sole owner of the remediation site, the RA shall obtain the certification by original signature of each owner, or authorized agent of the owner(s), of the remediation site or any portion thereof, who is not an RA. The property owner(s), or the duly authorized agent of the owner(s) must certify, by original signature, the statement appearing below. This certification shall be recorded in accordance with Illinois Administrative Code 740.620.

Include the full legal name, title, the company, the street address, the city, the state, the ZIP code, and the telephone number of all other property owners. Include the site name, street address, city, ZIP code, county, Illinois inventory identification number and real estate tax index/parcel index number.

A duly authorized agent means a person who is authorized by written consent or by law to act on behalf of a property owner including, but not limited to:

1. For corporations, a principal executive officer of at least the level of vice-president;
2. For a sole proprietorship or partnership, the proprietor or a general partner, respectively; and
3. For a municipality, state or other public agency, the head of the agency or ranking elected official.

For multiple property owners, attach additional sheets containing the information described above, along with a signed, dated certification for each. All property owner certifications must be recorded along with the attached NFR letter.

Property Owner Information	
Owner's Name: <u>Gregory A. Ciambone</u>	
Title: <u>Manager</u>	
Company: <u>Torrence Holding III, LLC</u>	
Street Address: <u>929 West Adams Street</u>	
City: <u>Chicago, IL</u>	State: <u>IL</u> Zip Code: <u>60607</u> Phone: <u>(312) 492-1602</u>
Site Information	
Site Name: <u>South Slip</u>	
Site Address: <u>1103 South Torrence Avenue</u>	
City: <u>Chicago</u>	State: <u>IL</u> Zip Code: <u>60617</u> County: <u>Cook</u>
Illinois inventory identification number: _____	
Real Estate Tax Index/Parcel Index No. <u>26-18-100-021-0000/26-18-300-025-0000</u>	
<p>I hereby certify that I have reviewed the attached No Further Remediation Letter and that I accept the terms and conditions and any land use limitations set forth in the letter.</p>	
Owner's Signature: <u>Gregory A. Ciambone</u>	Date: <u>1/10/14</u>
<p>SUBSCRIBED AND SWORN TO BEFORE ME this <u>10th</u> day of <u>January</u>, 2014</p>	
<u>Christina Marie Wolfe</u> Notary Public	<div style="border: 1px solid black; padding: 5px; width: fit-content; margin: auto;"><p>OFFICIAL SEAL CHRISTINA MARIE WOLFE Notary Public - State of Illinois My Commission Expires Aug 3, 2014</p></div>

The Illinois EPA is authorized to require this information under Sections 415 ILCS 5/58 - 58.12 of the Environmental Protection Act and regulations promulgated thereunder. If the Remediation Applicant is not also the sole owner of the remediation site, this form must be completed by all owners of the remediation site and recorded with the NFR Letter. Failure to do so may void the NFR Letter. This form has been approved by the Forms Management Center. All information submitted to the Site Remediation Program is available to the public except when specifically designated by the Remediation Applicant to be treated confidentially as a trade secret or secret process in accordance with the Illinois Compiled Statutes, Section 7(a) of the Environmental Protection Act, applicable Rules and Regulations of the Illinois Pollution Control Board and applicable Illinois EPA rules and guidelines.

Notice to Remediation Applicant

Please follow these instructions when filing the NFR letter with the County Recorder's Office

Instructions for Filing the NFR Letter

The following documents must be filed:

- A. Body of the NFR Letter (contains appropriate terms and conditions, tables, etc.)
 - B. Attachments to NFR letter
 - Illinois EPA Site Remediation Program Environmental Notice (Legal Description and PIN of property)
 - Maps of the site
 - Table A: Regulated Substances of Concern (if applicable.)
 - Property Owner Certification
 - C. A copy of the ordinance, if applicable, used to address groundwater contamination
1. Place the Illinois EPA Site Remediation Program Environmental Notice on top of the NFR prior to giving it to the Recorder.
 2. If you are not the owner (record title holder) of the property on the date of filing of this NFR, you must attach a **completed** owner's certification form signed by the owner of the property at the time of filing (e.g., if the property recently sold, the new owner must sign).
 3. If any of the terms and conditions of the NFR letter references a groundwater ordinance, you must record a copy of the groundwater ordinance with the NFR letter.
 4. If any of the terms and conditions of the NFR letter references a highway agreement, you must record the highway agreement if specifically required by the municipality granting the agreement.
 5. Within thirty (30) days of this NFR Letter being recorded by the Office of the Recorder of the County in which the property is located, a certified copy of this Letter, as recorded, shall be obtained and submitted to the Illinois EPA to:

Robert E. O'Hara
Illinois Environmental Protection Agency
Bureau of Land/RPMS
1021 North Grand Avenue East
Post Office Box 19276
Springfield, IL 62794-9276

6. **Remove this page from the NFR letter, prior to recording.**

If you have any questions call (217) 524-3300 and speak with the "project manager on-call" in the Site Remediation Program.



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 • (217) 782-2829

PAT QUINN, GOVERNOR

LISA BONNETT, DIRECTOR

(217) 524-3300

December 20, 2013

CERTIFIED MAIL

7012 0470 0001 2973 2485

Mr. Ferdinand Alido
Navistar, Inc.
2701 Navistar Drive
Lisle, Illinois 60532

Re: 0316485097-Cook County
Chicago/Wisconsin Steel Mooring Slips-South Slip
SRP/Technical Reports
No Further Remediation Letter

Dear Mr. Alido:

The *South Slip Sediment Cap Remedial Action Completion Report, Former Wisconsin Steelworks, Chicago, Illinois*, the "Report" (received September 10, 2013/Log No. 13-54822), as prepared by ARCADIS U.S., Inc., for the above referenced Remediation Site, has been reviewed and approved by the Illinois Environmental Protection Agency ("Illinois EPA"). This Report demonstrates the remediation objectives approved for the site in accordance with 35 Illinois Administrative Code Part 742, including the indoor inhalation pathway, are above the existing concentrations of regulated substances and that the remedial action was completed in accordance with the *South Slip Sediment Cap Design Report, Former Wisconsin Steelworks, Chicago, Illinois*, approved August 29, 2013, and 35 Illinois Administrative Code Part 740.

The Remediation Site, consisting of 4.774 acres, is located at 11103 South Torrence Ave., Chicago, Illinois. Pursuant to Section 58.10 of the Illinois Environmental Protection Act ("Act") (415 ILCS 5/1 et seq.), your request for a no further remediation determination is granted under the conditions and terms specified in this letter. The Remediation Applicant, as identified on the Illinois EPA's Site Remediation Program DRM-1 Form (received March 6, 2006/Log No. 06-28589) is Navistar, Inc.

This comprehensive No Further Remediation Letter ("Letter") signifies a release from further responsibilities under the Act for the performance of the approved remedial action. This Letter shall be considered prima facie evidence that the Remediation Site described in the attached Illinois EPA Site Remediation Program Environmental Notice and shown in the attached Site Base Map does not constitute a threat to human health and the environment and does not require further remediation under the Act if utilized in accordance with the terms of this Letter.

4302 N. Main St., Rockford, IL 61103 (815)987-7760
595 S. State, Elgin, IL 60123 (847)608-3131
2125 S. First St., Champaign, IL 61820 (217)278-5800
2009 Mall St., Collinsville, IL 62234 (618)346-5120

9511 Harrison St., Des Plaines, IL 60016 (847)294-4000
5407 N. University St., Arden 113, Peoria, IL 61614 (309)693-5462
2309 W. Main St., Suite 116, Marion, IL 62959 (312)993-7200
103 W. Randolph, Suite 10-300, Chicago, IL 60601 (312)814-4026

Conditions and Terms of Approval

Level of Remediation and Land Use Limitations

- 1) The Remediation Site is restricted to Industrial/Commercial land use.
- 2) The land use specified in this Letter may be revised if:
 - a) Further investigation or remedial action has been conducted that documents the attainment of objectives appropriate for the new land use; and
 - b) A new Letter is obtained and recorded in accordance with Title XVII of the Act and regulations adopted thereunder.

Preventive, Engineering, and Institutional Controls

- 3) The implementation and maintenance of the following controls are required as part of the approval of the remediation objectives for this Remediation Site.

Preventive Controls:

- 4) At a minimum, a safety plan should be developed to address possible worker exposure in the event that any future excavation and construction activities may occur within the contaminated soil. Any excavation within the contaminated soil will require implementation of a safety plan consistent with NIOSH Occupational Safety and Health Guidance Manual for Hazardous Waste Site Activities, OSHA regulations (particularly in 29 CFR 1910 and 1926), state and local regulations, and other USEPA guidance. Excavated soil must be returned to the same depth from which it was excavated or properly managed or disposed in accordance with applicable state and federal regulations.

Engineering Controls:

- 5) The engineered barrier, which is a minimum eighteen (18) inches in thickness, is comprised of a minimum of twelve (12) inches of 2% organic carbon enhanced sand overlain by six (6) inches of two (2) inch stone, and covering the area shown on the attached Site Base Map, must remain over the contaminated sediment. This engineered barrier must be properly maintained to isolate the contaminated media from the aquatic environment.

Other Terms

- 6) Areas outside the Remediation Site boundaries or specific engineered barrier locations, as shown in the Site Base Map, are not subject to any other institutional or engineered barrier controls.

- 7) Where the Remediation Applicant is not the sole owner of the Remediation Site, the Remediation Applicant shall complete the attached *Property Owner Certification of the No Further Remediation Letter under the Site Remediation Program* Form. This certification, by original signature of each property owner, or the authorized agent of the owner(s), of the Remediation Site or any portion thereof who is not a Remediation Applicant shall be recorded along with this Letter.
- 8) Further information regarding this Remediation Site can be obtained through a written request under the Freedom of Information Act (5 ILCS 140) to:

Illinois Environmental Protection Agency
Attn: Freedom of Information Act Officer
Division of Records Management #16
1021 North Grand Avenue East
Post Office Box 19276
Springfield, IL 62794-9276

- 9) Pursuant to Section 58.10(f) of the Act (415 ILCS 5/58.10(f)), should the Illinois EPA seek to void this Letter, the Illinois EPA shall provide notice to the current title holder and to the Remediation Applicant at the last known address. The notice shall specify the cause for the voidance, explain the provisions for appeal, and describe the facts in support of this cause. Specific acts or omissions that may result in the voidance of the Letter under Sections 58.10(e)(1)-(7) of the Act (415 ILCS 5/58.10(e)(1)-(7)) include, but shall not be limited to:
- a) Any violation of institutional controls or the designated land use restrictions;
 - b) The failure to operate and maintain preventive or engineering controls or to comply with any applicable groundwater monitoring plan;
 - c) The disturbance or removal of contamination that has been left in-place in accordance with the Remedial Action Plan. Access to soil contamination may be allowed if, during and after any access, public health and the environment are protected consistent with the Remedial Action Plan;
 - d) The failure to comply with the recording requirements for this Letter;
 - e) Obtaining the Letter by fraud or misrepresentation;
 - f) Subsequent discovery of contaminants, not identified as part of the investigative or remedial activities upon which the issuance of the Letter was based, that pose a threat to human health or the environment;
 - g) The failure to pay the No Further Remediation Assessment Fee within forty-five (45) days after receiving a request for payment from the Illinois EPA;
 - h) The failure to pay in full the applicable fees under the Review and Evaluation Services Agreement within forty-five (45) days after receiving a request for payment from the Illinois EPA.

10) Pursuant to Section 58.10(d) of the Act, this Letter shall apply in favor of the following persons:

- a) Navistar, Inc.;
- b) The owner and operator of the Remediation Site;
- c) Any parent corporation or subsidiary of the owner of the Remediation Site;
- d) Any co-owner, either by joint-tenancy, right of survivorship, or any other party sharing a relationship with the owner of the Remediation Site;
- e) Any holder of a beneficial interest of a land trust or inter vivos trust, whether revocable or irrevocable, involving the Remediation Site;
- f) Any mortgagee or trustee of a deed of trust of the owner of the Remediation Site or any assignee, transferee, or any successor-in-interest thereto;
- g) Any successor-in-interest of the owner of the Remediation Site;
- h) Any transferee of the owner of the Remediation Site whether the transfer was by sale, bankruptcy proceeding, partition, dissolution of marriage, settlement or adjudication of any civil action, charitable gift, or bequest;
- i) Any heir or devisee of the owner of the Remediation Site;
- j) Any financial institution, as that term is defined in Section 2 of the Illinois Banking Act and to include the Illinois Housing Development Authority, that has acquired the ownership, operation, management, or control of the Remediation Site through foreclosure or under the terms of a security interest held by the financial institution, under the terms of an extension of credit made by the financial institution, or any successor-in-interest thereto; or
- k) In the case of a fiduciary (other than a land trustee), the estate, trust estate, or other interest in property held in a fiduciary capacity, and a trustee, executor, administrator, guardian, receiver, conservator, or other person who holds the remediated site in a fiduciary capacity, or a transferee of such party.

11) This letter, including all attachments, must be recorded as a single instrument within forty-five (45) days of receipt with the Office of the Recorder of Cook County. For recording purposes, the Illinois EPA Site Remediation Program Environmental Notice attached to this Letter should be the first page of the instrument filed. This Letter shall not be effective until officially recorded by the Office of the Recorder of Cook County in accordance with Illinois law so that it forms a permanent part of the chain of title for the Wisconsin Steel Mooring Slips-South Slip property.

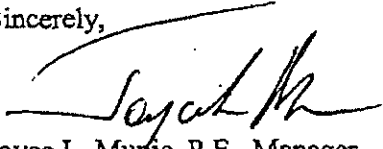
12) Within thirty (30) days of this Letter being recorded by the Office of the Recorder of Cook County, a certified copy of this Letter, as recorded, shall be obtained and submitted to the Illinois EPA to:

Mr. Robert E. O'Hara
Illinois Environmental Protection Agency
Bureau of Land/RPMS #24
1021 North Grand Avenue East
Post Office Box 19276
Springfield, IL 62794-9276

13) In accordance with Section 58.10(g) of the Act, a No Further Remediation Assessment Fee based on the costs incurred for the Remediation Site by the Illinois EPA for review and evaluation services will be applied in addition to the fees applicable under the Review and Evaluation Services Agreement. Request for payment of the No Further Remediation Assessment Fee will be included with the billing statement.

If you have any questions regarding the Wisconsin Steel Mooring Slips-South Slip property, you may contact the Illinois EPA project manager, Todd Gross, at 217/524-4862.

Sincerely,



Joyce L. Murrie, P.E., Manager
Remedial Project Management Section
Division of Remediation Management
Bureau of Land

Attachments: Illinois EPA Site Remediation Program Environmental Notice
Site Base Map
Property Owner Certification of No Further Remediation Letter under the Site
Remediation Program Form
Instructions for Filing the NFR Letter

cc: Mr. Greg Vanderlaan
ARCADIS, Inc.
10 South Riverside Plaza, Suite 1900
Chicago, Illinois 60606

Mr. Robert O'Hara
BOL File

UNITED STATES POSTAL SERVICE

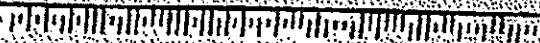


First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

Attn: Rumler
ARCADIS, U.S., Inc.
10 South Riverside Plaza, Suite 1900
Chicago, IL 60606

ARCADIS U.S.
JAN 24 2014



SENDER: COMPLETE THIS SECTION

- Complete Items 1, 2, and 3. Also complete Item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

Article Addressed to:
Mr. Robert E. O'Hara
Illinois Environmental Protection Agency
Bureau of Land/RPMS
1021 North Grand Avenue East
PO Box 19276
Springfield, IL 62794-9276

COMPLETE THIS SECTION ON DELIVERY

- A. Signature
☒ Illinois Environmental Protection Agency
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276
- B. Received by: [Signature] C. Date of Delivery: JAN 29
- D. Is delivery address different from Item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ O.D.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

7011 2000 0002 0647 5557

1-16-13

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-44-1540

ATTACHMENT C

Superfund Memorandum of Agreement

Between The

Illinois Environmental Protection Agency, State of Illinois

And The

United States Environmental Protection Agency, Region V
In Implementing the Superfund
Program in Illinois

=

Forward

The IEPA hazardous substance cleanup program has been in operation since 1984. There are currently 37 listed National Priorities List (NPL) Superfund sites in Illinois. The State Remedial Action Priorities List (SRAPL) names 33 sites for state funded remedial action. In addition, the IEPA has conducted cleanups classified as "immediate removals" and privately funded cleanups subject to Agency oversight and approval.

IEPA is a strong proponent of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) program. IEPA's substantial participation in CERCLA/ASTSWMO work groups is designed to streamline and improve the Superfund program. The February 1990 revisions to the National Contingency Plan (NCP) envision a larger and more substantial role for states in the CERCLA Program. The revised NCP enables the United States Environmental Protection Agency (USEPA) to authorize eligible States to manage large segments of the CERCLA Program. IEPA intends to increase its participation in the program and to take as comprehensive a role in the Superfund Program as the NCP allows. This Superfund Memorandum of Agreement (SMOA) was written to clarify the current good working relationship between IEPA and USEPA and to form a baseline for further defining roles and responsibilities of the agencies to reduce current inefficiencies in program implementation and improve the quality of the processes used.

SMOA - Table of Contents

- I. Agreement Overview
 - A. Program Background
 - B. Purpose/Statement of Principles
 - C. Overview
- II. SMOA - General Application
 - A. Lead/Support Agency Designation
 - B. SMOA Points of Contact (POC)
 - C. SMOA Planning and Coordination
 - D. Site Specific Communication/Coordination
 - E. Dispute Resolution
- III. SMOA Site- and Phase-Specific Application
 - A. Pre-Remedial
 - B. Remedial Investigation/Feasibility Study (RI/FS)
 - C. Record of Decision (ROD)
 - D. Remedial Design (RD)
 - E. Remedial Action (RA)
 - F. Deletion of Site from NPL
 - G. Operation and Maintenance (O&M)
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 - A. Preamble
 - C. Enforcement Principles
 - D. Enforcement Program Policies/Guidelines
- V. Federal Facilities
 - A. NPL Sites
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 - C. NPL Deletion
 - D. Community Relations
- VI. Superfund Comprehensive Accomplishments Plan (SCAP)
 - A. SCAP Overview
 - B. SCAP Negotiations
- VII. Administrative Record
 - A. State Involvement on Federal-Lead Sites
 - B. Federal Involvement on State-Lead Sites
- VIII. Community Relations and Technical Assistance Grants
- IX. Cooperative Agreement and Contract Management General Policy
 - A. Cooperative Agreement Applications
 - B. Consultant/Contractor Procurement
 - C. Contract Change Orders
 - D. Intergovernmental Review
 - E. Superfund State Contract Procedures
- X. Confidential Documents

I. AGREEMENT OVERVIEW

PROGRAM BACKGROUND

- A. Since the end of World War II, man-made compounds and chemicals have been an increasingly prevalent part of American life; life as we know and enjoy it today would be impossible without these ubiquitous substances.

For more than 40 years, we have used and thrown away potentially lethal products which can outlast their creators by decades or even centuries. Only since the late 1970s, when the Love Canal site in New York state was thrust into the nation's consciousness, has public attention been closely focused on what we do with these materials. We know now that out of sight may mean out of mind but it does not mean out of jeopardy.

In the decade since Love Canal, giant steps have been taken to identify problems, locate sites, rate them for risk and give them rankings for response priority. New corrective techniques have evolved, testing becomes ever more exact, research continues to give us a better idea of the proportions of the enormous problem.

In Illinois, development of mechanisms to deal with the evolving problem have paralleled efforts at the national level. The agenda was not surprising; in the early 1980's only New Jersey generates more hazardous wastes than Illinois.

The Illinois Environmental Protection Agency (IEPA) is a vigorous proponent of alternative treatment technologies such as mobile incineration and use of low temperature thermal treatment as an alternative to landfill disposal of hazardous and toxic wastes. There are currently two mobile incineration projects which have been completed in the state, with a third incinerator project in operation in LaSalle and a fourth in operation in Chicago.

B. Parties to Agreement/Regulatory Authority

This Superfund Memorandum of Agreement (SMOA) is entered into between the U.S. Environmental Protection Agency (USEPA), Region V and the Illinois Environmental Protection Agency (IEPA) pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA) and proposed Subpart F Section 300.505 of the National Contingency Plan (NCP).

Signature by both parties to this agreement confirms their mutual commitment to its content while recognizing that the SMOA is not a legally enforceable document. The parties further acknowledge that in order to make this a workable, usable agreement, it is necessary that all Agency staff involved in the Superfund process should be made aware of and understand its contents. The parties agree to interact frequently as issues arise, and that any modifications will be made by mutual consent for reasons such as changes in federal and state laws, regulations and policies or merely to render procedures clearer and/or simpler to understand and carry out. Nothing in the SMOA shall be construed to limit or modify authorities granted to either USEPA or IEPA. This agreement is intended to

benefit the State and USEPA. It neither expands nor abridges the rights of any party, including potentially responsible parties, not signatory to this Agreement. Nothing contained in this SMOA shall be construed, either expressly or by implication, to make USEPA or the State the other's agent. The provisions of this SMOA should be followed in the development of site-specific agreements. However, if at any time a conflict arises between the language of this SMOA and the language contained in a Cooperative Agreement (CA), Superfund State Contract (SSC) or enforcement agreement/order, the CA, SSC or agreement/order language will be controlling. If any conflict arises between the SMOA and 40 CFR Part 35 or the NCP, Part 35 and the NCP are controlling.

C. Purpose

The purpose of this SMOA is to delineate the respective roles and responsibilities of the IEPA, Division of Land Pollution Control ("IEPA") and ("DLPC") USEPA, Region V, Office of Superfund ("USEPA-OSF") in carrying out the Superfund program in Illinois in a manner that best protects public health and the environment, reduces inefficiencies in implementation and improves the qualities of the process used. Specifically the SMOA addresses:

1. Establishment of operating procedures for general Superfund program coordination and communication between USEPA and IEPA.
2. Development of a procedure to designate "lead agency" and "support agency" roles for all Superfund activities including federal facilities oversight.
3. Establishment of a planning process to make optimal use of the resources of each party and to avoid conflicts and duplication of effort in conducting response and remedial activities.
4. Outlining of a schedule for the timely review of technical deliverables, reports, studies and pertinent documents by both parties and equitable exchange of site information.
5. Assurance that all response and remedial activities conducted on sites are consistent with CERCLA and the NCP and all applicable or relevant and appropriate Federal, State and local laws and regulations.
6. Forming a baseline from which to improve the qualities of the process currently used by IEPA and USEPA.

D. Statement of Principles

The IEPA-DLPC and USEPA-OSF acknowledge that in order to make this a workable, usable agreement, it is necessary that all agency staff involved in the Superfund process should be made aware of and understand its contents. The agencies agree to interact frequently as issues arise, and that any modifications will be made by mutual consent for reasons such as changes in federal and state laws, regulations and policies or merely to render procedures clearer and/or simpler to understand and carry out. Nothing in this SMOA shall be construed to limit or modify authorities

granted to either USEPA or IEPA. This agreement is intended to benefit the State and USEPA. It neither expands nor abridges the rights of any party, including potentially responsible parties, not signatory to this Agreement. Nothing contained in this SMOA shall be construed, either expressly or by implication, to make USEPA or the State the other's agent. The provisions of this SMOA should be followed in the development of site-specific agreements. However, if at any time a conflict arises between the language of this SMOA and the language contained in a Cooperative Agreement (CA), Superfund State Contract (SSC) or enforcement agreement/order, the CA, SSC or agreement/order language will be controlling. The SMOA is not a legally enforceable document. Part 35 and the NCP are controlling.

II. SMOA -- GENERAL APPLICATION

A. Lead/Support Agency Designation

The terms "lead" and "support" agency in this Agreement refer to the responsibilities undertaken by the respective agencies through a Cooperative Agreement (CA), or Superfund State Contract, Administrative Consent Order or court order. These program activities will be formulated pursuant to Subpart F of the NCP.

The IEPA-DLPC and USEPA-OSF acknowledge that an appropriate distribution of workload will:

- Serve to expedite the rate and efficiency at which hazardous waste sites and incidences in Illinois are remediated.
- Eliminate or reduce the duplication of effort by USEPA and IEPA on each NPL project.

USEPA-OSF agrees, regardless of lead or support status, to coordinate its activities within USEPA and with all appropriate Federal agencies having environmental, public health, or natural resource enforcement responsibilities, including but not limited to the Department of Justice, Department of Interior and the Agency for Toxic Substances and Disease Registry (ATSDR). IEPA-DLPC agrees, regardless of lead or support status, to coordinate its activities within IEPA and with all appropriate State and local agencies having environmental, public health, or natural resource enforcement responsibilities, including but not limited to the Illinois Attorney General's office, Illinois Department of Public Health, and the three other Agencies besides IEPA that are the State Natural Resource trustees: the Department of Conservation (DOC), Department of Energy and Natural Resources (DENR) and Department of Transportation (DOT). In addition, IEPA-DLPC will attempt to coordinate Superfund activities with affected county and municipal governments, where appropriate.

1. Lead Agency - that agency, either USEPA Region V or IEPA, which has primary responsibility for managing and coordinating response, and/or remedial actions under CERCLA for a particular site. For USEPA, a Remedial Project Manager (RPM) will be designated to carry out the remedial clean up process as called for in the NCP at each NPL site. IEPA will similarly assign a State Project Manager (SPM) for each NPL site. The lead agency will manage all outside consultants/contractors and act as the primary contact for support agency input to all concerned parties.
2. Support Agency - that agency which evaluates and comments on the development of the Superfund project and all documents utilized in the decision-making process for work managed by the lead agency.
3. Lead Designations - Project lead designations will be mutually agreed upon by both agencies. Once the designations are agreed upon, confirmatory letters will be exchanged and WasteLAN/CERCLIS will be updated accordingly. This process should occur no later than 3 months after the PRP search is completed.

Changes in the lead agency designation may occur during the response/remedial process. If so, the agency requesting a redesignation should initiate a meeting so that a transfer of roles can be documented. A re-evaluation of the lead can occur at any time by mutual agreement, but should occur at the start of the RI/FS process and following the selection of the remedy or as mutually agreed.

B. SMOA Points of Contact (POC)

The IEPA and the USEPA Region V shall appoint the following individuals to serve as the overall SMOA Points of Contact (POC). For IEPA, the POC is the Deputy Division Manager, Division of Land Pollution Control and for USEPA, Region V, the POC is the Associate Director, Office of Superfund, Waste Management Division.

Serving in this capacity, these individuals will be responsible for ensuring that the SMOA is adhered to according to its contents and will act as coordinators for suggestions on changes in procedure and policy direction.

The Points of Contact may wish to delegate to subordinate staff some of the routine SMOA management responsibilities such as specific meeting scheduling, planning, coordination of cooperative agreements and other contacts.

The day to day communication on site specific technical issues will normally occur between the lead and support agency project managers. This communication shall occur by telephone and written correspondence as appropriate. The RPM and SPM will be assigned as early as possible, but no later than when a NPL site CA is applied for or site enforcement activities are initiated. At least one individual from each agency will be assigned to each site acting in a lead or support role.

C. SMOA Planning and Coordination

Communication and coordination are the key elements in maintaining the SMOA as a viable instrument for administering Superfund. Commitment to the SMOA by both IEPA-DLPC and USEPA-OSF will pave the way for greater efficiency in project management and ultimately lead to implementation of effective remedies.

The year shall begin with an annual planning meeting, to occur in the second quarter of the federal fiscal year while the Superfund Comprehensive Accomplishments Plan (SCAP) is still in draft form, to be co-chaired by the SMOA POC for each agency. The POCs should invite appropriate staff at all levels to join in this planning and review effort. Topics to be covered at this time may include: review of and projections for the SCAP, future and existing cooperative agreements and contracts, adequacy in past reporting, and discussion of any changes in policy or procedures. An agenda shall initially be prepared by the host agency and distributed prior to the meeting. This meeting will occur in a mutually convenient location.

For on-going program monitoring during the year, both staffs agree to meet periodically with their respective management to review issues. IEPA and USEPA management will be involved in an interagency meeting at least once a year. It may or may not be co-scheduled with the annual planning meeting. Suggested agenda items for this meeting could include overall program status, compliance with turnaround dates and problems or concerns regarding finance, contracting or procurement. Suggestions for changes to the SMOA will be considered at the annual meeting.

D. Site Specific Communication/Coordination

Site specific communication and resolution of technical problems will occur primarily through the IEPA and USEPA designated project managers. The main communications on cooperative agreement and contract issues will be between the USEPA Project Officer (PO) and the IEPA Project Officer (IPO). Both agencies should agree upon an effective system for compiling and maintaining Superfund data including a mutually agreeable system for determining project file custody.

Project managers from either IEPA or USEPA can arrange meetings as appropriate to work on project advancement, arrange site visits and resolve any project problems or issues. Direct lines of communications should be open and frequent between the two project managers and between the PO and IPO.

The support agency should not, however, directly contact the lead agency's consultant/contractor or the responsible parties unless prior approval is given, but rather should work through the lead agency project manager. In the case of administrative or judicial orders or agreements, the terms of such orders or agreements shall control the duties and actions of the parties. Staff working on these orders/agreements should, however, be consistent with the SMOA to the maximum extent practicable in role/responsibility assignments. The support agency should be copied on all appropriate correspondence between the lead agency and their consultant/contractor, as well as be given advance notice of and be invited to meetings with consultant/contractors, responsible parties (RPs) or the public during various phases of the project.

E. Dispute Resolution

In the event of disputes between USEPA and IEPA concerning the implementation of any procedures specified in this SMOA, the RPM and SPM will attempt to resolve such disputes promptly. If disputes cannot be resolved at this level within 7 work days, the problem will be referred to the supervisors of these persons for further USEPA/IEPA consultation. Respective agency management chains are listed in the table below. This supervisory referral and resolution process will continue, if necessary, to the level of Director of IEPA and the Regional Administrator, USEPA, Region V. If agreement still cannot be reached, the dispute will jointly be referred to the Assistant Administrator for Solid Waste and Emergency Response of USEPA for a final determination. This dispute resolution process may be used for site specific issues, to the extent it does not conflict with the dispute resolution process specified in a legally binding document controlling CERCLA activities at a particular site.

USEPA/IEPA Management Chain

USEPA

IL/IN. Unit Managers
IL/IN. Section Manager
Branch Chief
Associate Director-Superfund
Director - WMD
Regional Administrator

IEPA

FSMU Sub-Unit Manager
FSMU Unit Manager
RPMS Section Manager
Deputy LPC Division Manager
LPC Division Manager
Director

F. SMOA Improvements

IEPA-DLPC and USEPA-OSF shall each designate a team including project managers and unit or senior level managers for purposes of reviewing the roles and responsibilities of IEPA-DLPC and USEPA-OSF under this SMOA and as actually practiced and for purposes of recommending improvements in those roles and responsibilities and this SMOA. The IEPA-DLPC and USEPA-OSF teams shall meet together as a working team with the goal of clarifying roles and responsibilities to reduce inefficiencies and improve the quality of the processes used.

III. SMOA SITE- AND PHASE-SPECIFIC APPLICATIONS

A. Pre-Remedial Preliminary Assessment/Site Investigation (PA/SI), NPL Listing process, and CERCLA Information System (CERCLIS)

1. At the annual planning meeting, IEPA-DLPC and USEPA-OSF will determine and mutually agree upon the number of PA/SI completions utilizing state resources. This effort should occur prior to Region V's receipt of SCAP targets from headquarters.
2. Funding for PA/SI activities will be provided by USEPA to the State through preparation of a Cooperative Agreement by IEPA.
3. Prior to submitting the Multi-Site Cooperative Agreement (MSCA) to USEPA, IEPA will send a letter out for Intergovernmental Review. It will extract from the MSCA, the number of PAs and SIs, the total estimated costs and a description of the activities involved. Timing on the MSCA will follow the procedure in IX (Cooperative Agreements and Contract Management General Policy).
4. The IEPA will perform the appropriate number of PA/SIs according to the Scope of Work (SOW) described in the MSCA under the auspices of CERCLA and the NCP.
5. IEPA will provide USEPA with the:
 - a. Itemization of object class expenditures by each activity in the SOW;
 - b. Dispositions of sites where an activity has been completed;
 - c. Personnel hours spent at each site per PA and SI; and
 - d. Identification of new sites or changes in the list of sites designed for PAs or SIs in the original MSCA application.
6. IEPA further commits to meet the quarterly reporting requirements of EPA's Preliminary Assessment and Site Inspection State Cooperative Agreement Guidance.

IEPA will designate the names of the sites to be inspected, either in the quarterly reports or by letter to USEPA, prior to conducting the site inspections. IEPA may also find it necessary, after the MSCA is issued, to change the sites designated for work under the MSCA. IEPA agrees to provide USEPA with the names of new sites, before any site work is performed, either in the quarterly reports or by separate letter.
7. The USEPA/Field Investigation Team (FIT) and IEPA will meet annually to assure consistency in PA/SIs and reporting requirements in order to avoid duplication of efforts.

8. IEPA Cooperative Agreement Requirements

Quarterly Reports

IEPA will submit quarterly reports to USEPA in accordance with Section 6 (above) or PA/SI State Cooperative Agreement Guidance. These quarterly reports will be submitted to the Region on January 30, April 30, July 30 and October 30.

For any PA/SI deliverables ultimately requiring support agency review and approval, the lead agency will commit to addressing all support agency comments in writing and will incorporate all requirements established by the support agency resulting from a response to draft deliverables. Disputes would be resolved prior to the lead agency proceeding to the next project step according to the Dispute Resolution section of this document.

9. Sample Splits and Analyses

In accordance with CERCLA Section 104(e), IEPA and USEPA employees, officers or representatives will provide the owner, operator, or individual in charge of a site the opportunity to receive 1) a split of each sample collected on that particular site 2) a receipt describing the samples collected, and 3) a copy of validated analytical results as they are received.

10. Addition of New Sites

IEPA will notify USEPA, in the quarterly report or by separate letter, of any changes or additions of sites to the list of sites presented in the MSCA application for performance of PAs and SIs.

11. Joint PA/SI Effort

IEPA and USEPA agree to work together to ensure that sites requiring PAs and SIs are addressed as expeditiously as possible. If IEPA falls behind in its accomplishments as established under the Cooperative Agreement, USEPA, in consultation with IEPA, may initiate PAs and SIs at IEPA lead sites to assist IEPA in accomplishing the PAs and SIs.

12. New Site Discovery

IEPA will recommend new sites to be added to USEPA WasteLAN/ CERCLIS, using the standard USEPA format.

13. NPL - IEPA will present recommendations to USEPA prior to each update of the NPL, of which sites should be considered for placement on the NPL. At that time, those recommendations and USEPA's position should be discussed and a mutual decision on final NPL sites be determined. The nomination of selected sites should be recorded in the meeting minutes.

IEPA should be formally notified in writing of the final USEPA nominations for NPL listing prior to public comment.

B. Remedial Investigation/Feasibility Study

1. RI/FS Overview

USEPA-OSF and IEPA-DLPC agree that the proper performance of the RI/FS activities at an NPL site is critical to characterize the site's problems and develop the necessary remedial action alternatives. The goal of RI/FS activities is to provide sufficient information to support remedy selection through the Record of Decision (ROD) process. The agencies, therefore, commit to expediting the RI/FS process whether the RI/FS is under State or Federal lead and to collecting only the appropriate amount of data required for proper identification of the problem and remedy selection.

Each party commits to ensuring that the RI/FS activities are performed and completed within a continuous, scheduled period of time (subject to budget constraints outside of the parties' control). These efforts will typically involve: reviews and comments on project deliverables; attendance at progress, technical review, and community relations meetings; site visits; general project correspondence and generation of project files; tracking project funds and schedules; and performing contract administration.

2. RI/FS Tasks

The parties agree that certain basic RI/FS tasks will be accomplished and documented for review and approval by both agencies in accordance with the USEPA/IEPA RI/FS Document Review Table found elsewhere in this SMOA. All RI/FS activities will be conducted in accordance with USEPA guidance documents. Approved documents will be placed promptly in the Public Repository and Administrative Record by the lead agency. For a RP-conducted RI/FS, the lead agency will take the lead role in coordinating the oversight of development of site-specific documents. The basic tasks required for the lead agency to complete the fund-financed and enforcement RI/FS effort under the Superfund program are:

- a. Development of RI/FS Work Plans; Sampling Plan (SP), Health and Safety Plan (HSP), Quality Assurance Project Plan (QAPP), Community Relations Plan (CRP);
- b. Establishment of one or more public repositories as RI/FS Work Plans are finalized;
- c. Development of Preliminary Site characterizations summaries;
- d. Development of the draft and final RI Report, including the Risk/Endangerment Assessment;
- e. Development of the Alternatives Array Document for determination of site ARARs;

- f. Development of Draft FS Report (Alternative screening and development);
- g. Maintain the Administrative Record;
- h. Development of Treatability Study Reports;
- i. Development of the Public Comment FS Report; and
- j. RI Public Meeting (in most cases) and Proposed Plan Public Hearing

Permit acquisition may be necessary for the implementation of proposed activities. Acquisition of necessary permits or facilitating compliance with substantive requirements if a permit is not issued for an on-site activity will be coordinated by whichever agency has most appropriate jurisdiction. The support agency shall assist the lead agency in its permit acquisition activities and be copied when the permits are acquired.

The incorporation of Applicable or Relevant and Appropriate Requirements (ARARs) will be as described in the Superfund Amendments and Reauthorization Act (SARA) and associated guidance and regulations into the remediation process by either the lead or support agency. Both the lead and support agencies will exchange and discuss their proposed ARARs at as early a point in the RI/FS process as possible. As the RI progresses, both agencies will identify and exchange their location-specific ARARs during the early scoping stage of the RI. Chemical-specific ARARs should be identified and exchanged during Phase I of the RI to the maximum extent possible. Finally, the action-specific ARARs should be identified and shared during the development of alternatives prior to their finalization in the FS.

3. Document Review/Comment/Approval

Each lead agency project manager should be aware of the number of copies of each deliverable required by the support agency project manager for review and make every effort to provide such to expedite that review. For any deliverables requiring support agency review and comment, the lead agency will commit to addressing all support agency comments by written correspondence, by indicating those comments which will be incorporated into the RI/FS deliverable and providing an explanation for each comment not incorporated. The review and comment process must be adequately documented for both agencies' files in writing. If time constraints warrant, deliverable review comments may be conveyed verbally, or in hand-written form. These comments must be followed immediately by the same formal typed, signed/dated version transmitted to the respective project manager.

USEPA-OSF and IEPA-DLPC commit to conducting joint reviews on a timely basis, with a clear understanding that the maximum review and comment time periods from receipt of a RI/FS deliverable to return to the lead agency will be in accordance with the following table:

USEPA/IEPA
RI/FS DOCUMENT REVIEWS

		USEPA Role		IEPA Role	
Document	Maximum Review Time (Calendar Days)	State-Lead Fund Project(s) (State recommends approvals)	State-Lead Enforcement Project (2-Party) Project (PS) (No Federal Oversight Funding)	USEPA-Lead Fund Project (F) (State oversight-"SE")	USEPA Lead (Three-Party) Enforcement Project (USEPA oversight-"RRP")
1. RI/FS Workplan (incl. CRP, HSP, SP - (excl. QAPP) Draft Final	30 14	Comment Approval	Comment Comment	Comment Comment	Comment Joint Approval*
2. QAPP 1st Draft 2nd Draft Final	30 21 14	Comment Comment Approval	File	File	Comment Comment Joint Approval*
3. Draft Health Assessment	21	Comment	Comment	Comment	Comment
4. RI Technical Memorandum	21	Comment	File	Comment	Comment
5. RI Report Draft Final	30 14	Comment Approval	Comment Comment	Comment Comment	Comment Joint Approval*

USEPA/IEPA
RI/FS DOCUMENT REVIEWS

Document	Maximum Review Time (Calendar Days)	USEPA Role		IEPA Role	
		State-Lead Fund Project(s) (State recommends approvals)	State-Lead Enforcement Project (2-Party) Project (PS) (No Federal Oversight Funding)	USEPA-Lead Fund Project (F)	USEPA Lead (Three-Party) Enforcement Project (USEPA oversight-"RP") (State oversight-"SE")
6. Alternatives Array (ARARS Solicitation)	30	Provide Federal ARARS to State	Provide Federal ARARS to State	Provide State ARARS to USEPA	Provide State ARARS to USEPA (RP) or Receive Federal ARARS from USEPA (SE)
7. Treatability Study Workplan Draft Final	30 14	Comment Approval	Fill	Comment Comment	Comment Joint Approval*
8. FS Report Draft Final	30 14	Comment Approval	Comment Comment	Comment Comment	Comment Joint Approval*
9. Draft Proposed Plan	30	Comment	Comment	Comment	Comment
9a. Draft ROD	30	Comment	Comment	Comment	Comment
10. Final Proposed Plan	7	Approval			
10a. Final ROD (incl. Resp. Summary)	14	Approval/Issuance	Concur/Non-Concur	Concur/Non-Concur	Concur/Non-Concur

USEPA-OSF/IEPA-DLPC RI/FS DOCUMENT REVIEW TABLE

The purposes of the preceding table are to 1) define the USEPA-OSF and IEPA-DLPC roles relative to the handling of RI/FS documents, for each of the four categories of RI/FS projects, and 2) define the maximum amount of time either USEPA-OSF or IEPA-DLPC has to complete its comment, approval or concurrence/nonconcurrence role for each document.

Column 1 lists all documents generated during a typical RI/FS.

Column 2 defines the maximum "review" time allowed each party for each listed document.

Column 3 defines the USEPA "support agency" role, document by document, for State-lead fund-financed projects. These are sites where IEPA is the recipient of a cooperative agreement to conduct a complete RI/FS, using its own contractor. The typical initial cooperative agreement amount is \$500K-\$750K. Due to USEPA's substantial financial involvement in these projects, USEPA retains an approval role for key documents as defined in the RI/FS review table.

Column 4 defines USEPA's role, document by document, for State-lead enforcement projects. These are sites where IEPA commits to entering into RI/FS negotiations with PRP's in order to reach settlement regarding PRP implementation of the RI/FS. The jurisdictional bases of a RI/FS or RD/RA settlement agreement is not addressed by this SMOA. This issue is hereby reserved, and will be addressed in the appropriate site-specific document or cooperative agreement. Pursuant to the terms of a \$15K-\$20K cooperative agreement with USEPA, IEPA commits to negotiating with the PRPs for a period of 120 days, based on USEPA model RI/FS consent agreement language. Though any settlement reached need not conform to USEPA bottom-line policy positions, USEPA must be convinced that, if properly enforced, the settlement will generate a complete RI/FS consistent with CERCLA in a reasonable period of time. Key provisions (penalties, force majeure, etc.) must be effective in ensuring the project is completed in a timely fashion, and key USEPA guidance documents must be referenced throughout to ensure quality work. RI/FS oversight costs to be incurred by IEPA cannot be borne in any way by USEPA. USEPA will not be a party to these agreements. If IEPA is unsuccessful in negotiating a settlement, the site is reevaluated for other possible enforcement action, or fund-financing. The purpose of State-lead enforcement projects is to expand the State's stake in the Superfund program, to conserve USEPA resources for other projects and to avoid duplication of effort during remedial activities.

Column 5 defines the IEPA "support agency" role, document by document, for USEPA-lead fund-financed projects. These are sites where USEPA conducts a complete RI/FS, using its own contractor.

USEPA pays for the IEPA's role through a cooperative agreement (typically \$20K-\$25K).

Column 6 defines IEPA's role, document by document, for USEPA-lead three-party enforcement projects. In such cases, USEPA is always the lead enforcement agency. IEPA may, through a cooperative agreement (typically \$200K+) or legal order, assume the technical lead oversight role, including hiring the oversight contractor.

Notes: -* "Joint Approvals" are in accordance with the dispute resolution clause contained in this document, the governing enforcement agreement, decree or order.

- State and Federal RPMs may negotiate shorter review times
- Documents 9 and 9a may be distributed simultaneously
- ATSDR independently issues final health assessments for all NPL sites
- Review times assume that enough copies of documents are provided to reviewing agency for full internal distribution.

C. Record of Decision(ROD)

The ROD is a decision document that identifies the selected remedial alternative and describes the rationale for the selection of that alternative. It is the responsibility of the lead agency, in consultation with the support agency, to write the proposed plan, responsiveness summary and the ROD; except when the site in question is a federal facility which has been delegated this responsibility. The responsibilities of federal facilities are discussed within the federal facility section of this document.

The key technical document used for the selection of the remedial alternative is the public comment FS report. Therefore, before the process of ROD development begins, there must be agreement between the lead and support agency that the FS is complete to the extent necessary for the lead agency to draft a proposed plan. Once this determination is made, the process for ROD development should be as follows:

1. The lead agency community relations coordinator, attorney and project manager will update the Administrative Record and transmit a copy to the support agency. The lead agency will update the public repository prior to the beginning of the public comment period. The lead agency will prepare the draft Proposed Plan. The support agency will review the draft Proposed Plan and provide comments to the lead agency in the agreed time frame. Meetings on the draft Proposed Plan may be necessary based on the complexity of site conditions and the remedy being proposed. The final proposed plan will be prepared and distributed by the lead agency.
2. The date, time and location of any public hearing will be published with appropriate notice in a major local newspaper near the site by the

lead agency. The Proposed Plan and public hearing details will be advertised in accordance with applicable federal and state requirements. A fact sheet will normally be prepared and distributed by the lead agency.

3. The lead agency community relations coordinator will schedule a public hearing approximately two weeks before the end of the FS/Proposed Plan public comment period.
4. Within two weeks after the close of the public comment period the lead agency project manager will prepare the draft ROD. The Responsiveness Summary will be drafted by the lead agency community relations coordinator and project manager within the same time frame.
5. The draft ROD and Responsiveness Summary will be transmitted by the lead Agency project manager, through the appropriate supervisory staff, to the support agency. This transmittal is to include a statement of the basis and purpose for the selected remedial alternative; an explanation of rationale for the decision; identification and rationale for any statutory requirements or preferences under SARA section 121(b) which are not met and an explanation of any significant differences between the ROD and the Proposed Plan.
6. The support agency will review the draft ROD and Responsiveness Summary and provide comments to the lead agency within the agreed time frame after receipt of these documents.
7. IEPA-OSF and USEPA-DLPC will hold a joint meeting immediately following the review period to discuss any significant comments on the draft ROD, if necessary. Decisions on modifications to the draft ROD should be finalized at this meeting. Each agency should invite the other to participate in their ROD briefings, as appropriate.
8. The lead agency will prepare a final Record of Decision and Responsiveness Summary based on the discussions of the ROD meeting described in C.7. above, assuming a meeting was necessary, within a one week period. (Senior management staff will be briefed on any significant changes from the draft documents.)
9. Copies of the final ROD will be promptly distributed to the support agency by the lead agency. Concurrently, the final ROD will be forwarded through the respective agency chains of command for signature. The support agency will provide a letter of concurrence or non-concurrence on the ROD, or sign a joint ROD, if appropriate.
10. The executed ROD will be promptly distributed to all parties and to the Public Repository and be entered into the Administrative Record and Notice of Availability will be published.
11. The format and content of all Proposed Plan/ROD documents will be prepared consistent with USEPA guidance.

D. Remedial Design (RD)

USEPA-OSF and IEPA-DLPC agree that an effective and responsible remedial design (RD) phase for NPL sites is our goal toward implementing the remedial action(s) (RAs) defined by a ROD. Remedial action/construction bid documents which are consistent with the ROD and enforcement agreements, as appropriate, are the desired product from the RD phase.

Joint efforts are necessary to ensure that the RD activities are performed and completed within a continuous, scheduled period of time regardless of which agency is lead (subject to budget constraints outside our control). These efforts will typically involve: reviews and comment on project deliverables; attendance at progress, technical review, and community relations meetings; site visits; general correspondence and telecommunications; maintaining project status reports and generation of project files; tracking project funds and schedules; and performing contract administration.

1. Design Tasks

The agencies agree that certain basic remedial design tasks will be accomplished and documented for review and approval by both agencies. They are:

- a. Pre-design planning (e.g. RD Work Plan, Health and Safety Plan, Community Relations Plan, Sampling and Testing Plan, Quality Assurance Project Plan, and Project Schedule);
- b. On-site and design investigation (e.g. environmental sampling and analysis, treatability studies, material properties testing and equipment performance tests);
- c. Maintain the Administrative Record;
- d. Preliminary designs at various percentages of completion (including: drawings, specifications, construction cost estimates, construction schedules, permits/approvals documentation, construction operation and maintenance and contingency plans); and
- e. Final design and bid packages (for fund-financed sites)

(Note: For RP-conducted RD, the lead agency will take the lead role in coordinating the oversight of the above tasks.)

2. Design Meetings

For fund-financed sites, IEPA-DLPC/USEPA-OSF site-specific "kick-off" and progress meetings will be arranged in accordance with the project schedule, between those agency personnel assigned to the project and others as needed for the topics to be discussed. These meetings will be held in the most convenient location for lead and support agencies and the design consultant.

The purpose of these meetings will be to discuss current contract requirements, project status, schedules, technical design criteria, deliverables and regulatory requirements. Those meetings will be held in conformance with assigned time periods for activities covered herein. For RP-conducted RD, the lead agency will schedule periodic progress meetings with the RP and the support agency.

3. Document Review/Comment/Approval

For any deliverable requiring support agency review and comment, the lead agency will commit to addressing all support agency comments by written correspondence, incorporating them or providing an appropriate explanation for each comment not incorporated into the design. The review and comment process must be documented by type-written signed and dated correspondence.

USEPA-OSF and IEPA-DLPC commit to conducting joint reviews of all documents on a timely basis. For RP-conducted RD, the review schedules will depend upon the terms of the governing settlement agreement or decree, or unilateral order.

4. Time Schedules

All deliverable Reviews, Comments and Approvals (R/C/A) will be assigned formal review times on a site-specific basis, but not to exceed 30 calendar days for draft documents and 14 calendar days for final documents for the following:

- a. Pre-design planning documents (reports, plans, schedules and maps for R/C/A);
- b. Monitoring, testing and design investigation documents (data reports and test results for R/C and plans and studies for R/C/A);
- c. Preliminary or interim design documents (reports, drawings and specifications for R/C);
- d. Preliminary bid package; and
- e. Pre-final design documents (reports, drawings and specification for R/C/A bid package for R/A)

E. Remedial Action (RA)

IEPA-DLPC and USEPA-OSF agree that an effective and responsible RA phase for NPL sites is the goal as defined by the ROD. The successful remediation of the site is the desired output from the RA phase.

Following completion and approval of the RD package, action must be taken to initiate RA activities. The type of agreement used to initiate the RA is dependent on the party that will implement the RA.

1. Federal Lead Remedial Action

To initiate the RA at a Federal lead site, the RPM works with the IEPA SPM to prepare and execute a State Superfund Contract (SSC).

Preparation of the SSC should commence during the RD phase of the project with SSC execution occurring at the completion of RD.

Once the SSC is executed, the USEPA will prepare and execute a site-specific RA Interagency Agreement (IAG) with the U.S Army Corps of Engineers (USACE) or initiate a work assignment with an Alternative Remedial Contracting Strategy (ARCS) contractor. The RPM should

-- forward copies of the executed RA IAG or ARCS work assignment to IEPA SPM. Upon completion of procurement activities, the USACE or ARCS -- contractor will initiate RA activities. The RPM will maintain oversight of all RA activities with the IEPA SPM in a support capacity.

2. State Lead Remedial Action

A CA is needed to establish the contractual arrangements between USEPA and IEPA, whereby IEPA agrees to perform certain RA activities, and USEPA commits to a share of the allowable costs.

The SPM and the State Project Officer should work with their USEPA counterparts to prepare the CA.

3. Responsible Party Lead Remedial Action

Certain oversight details for a responsible party RA will be given in the site-specific enforcement CA if one is executed. Certain details of the oversight arrangement may also be outlined in the governing settlement agreement or decree, or unilateral order. Lead oversight responsibilities will generally continue to be assigned to the lead agency responsible for oversight/conduct of the RI/FS.

4. Monitoring and Oversight

Records and reports generated during these activities must be adequately documented and maintained since they will be used in the final certification of the completion of the RA. Monitoring and oversight of construction activities are discussed below, and pertain to fund-financed and responsible party RAs, except where noted.

5. Inspections

The responsibility for construction inspection is given to the lead agency for the RA and is summarized below.

<u>RA Lead</u>	<u>Inspection</u>	<u>Support Oversight</u>
Federal	USACE or USEPA Consultant	IEPA (or IEPA consultant)
State	IEPA or IEPA Consultant	USEPA (or USACE or USEPA consultant)
Responsible Party	Responsible Party or RP Consultant, and USEPA or IEPA and/or their consultants, depending on agency lead.	USEPA, IEPA or its designee depending on agency lead

Construction Inspector

During on-site construction activities at fund-financed RA sites the lead agency responsible for inspection will provide an on-site inspector, as appropriate. The purpose of the on-site inspector is to monitor the on-site compliance with the contract and to report such activities to the lead agency. The on-site inspector is responsible to the lead agency project manager. The lead agency project manager, with notification to the support agency project manager, shall be authorized to stop all activities not in compliance with the approved RA documents or which endanger the health and welfare of on-site personnel, or public, or the environment. For large sites or complex projects, additional on-site inspectors may be required, with a chief resident inspector being responsible for communications with the lead agency.

For a responsible party RA, construction oversight will be provided by the lead agency project manager or the lead agency's designee on an ongoing basis, as necessary and as allowed by the NCP. The document of settlement should specify the authority of the oversight personnel in regards to construction activities.

6. Compliance with Environmental Requirements

Inspections should verify compliance with all environmental requirements identified in the RD. These inspections shall include, but not be limited to, air quality and emissions monitoring record review, off-site waste disposal record review (e.g., RCRA transportation manifests), etc. The inspector also should ensure compliance with all site-specific health and safety procedures, permits or other requirements that have been established.

7. Compliance with other Contract Requirements

The lead agency inspector shall review all daily reports on construction activities to verify that all work is in compliance with all contract requirements and shall bring significant discrepancies to

the attention of the lead agency project manager immediately. The support agency project manager will, as necessary, assist in resolving discrepancies in consultation with the lead agency.

8. Review of Contractor Reports

The lead agency inspector shall review all reports (daily, weekly, and monthly, etc.) and initial each. All comments on these reports should be noted in the inspector's daily log and summaries sent to the lead agency project manager on a regular basis; with copies provided to the support agency project manager upon request.

9. Progress Reports

Detailed progress reports will be required throughout the duration of a project. The progress reports will be prepared by the lead agency and/or their consultant and transmitted to the support agency on a quarterly basis. Progress reports will also be required from the RPs during RP-conducted RA and should similarly be provided to both agencies.

The progress reports will be used by IEPA-DLPC and USEPA-OSF to monitor the remedial construction activities. The content of these reports will be sufficient to develop a chronological record of all site activities and shall include, but not be limited to, the following elements:

- . Estimates of the percentage of the project completed and the total projected cost to date (if applicable)
- . Summaries of the following items for the reporting period:
 - work performed on the site
 - community relations activities including community contacts, citizen concerns, and efforts to resolve any concerns
 - personnel changes
 - change orders and claims made on the contract
 - problems encountered or potential problems anticipated
- . Status of contingency fund to date (fund-financed RA only)
- . Projected work for the next reporting period
- . Copies of contractor daily reports, change orders, RCRA manifests, and laboratory/monitoring data summaries.

For State lead projects, IEPA is responsible for processing change orders and claims with assistance and guidance from USEPA, in accordance with 40 CFR 33.

IEPA has the authority to approve any change order up to \$50,000 if no overall increase in Federal funds is required. The IEPA project manager will obtain approval from the USEPA Project Officer for all significant changes in work scope. Any change order above \$50,000 requires review and RPM approval. The RPM must respond to requests for change order approvals within five (5) working days after receipt. In emergency situations, USEPA will respond within 24 hours. Before any change order may be approved, IEPA must conduct a cost or price analysis (see 40 CFR 35, Subpart O). For Federal lead projects, the USEPA RPM should seek concurrence from the State project manager for significant changes in the RA scope of work.

For responsible party lead projects, the lead agency for oversight will generally be responsible for initiating review and approval of changes in the RA scope of work in accordance with the terms of the site-specific document of settlement or unilateral order.

10. Remedial Action Completion and Acceptance

As the project nears completion, roles and responsibilities of IEPA, USEPA, agency consultants and where appropriate, the USACE or responsible parties, must be clearly defined in writing to ensure proper project completion, approval, and closeout.

11. Final Inspection

The final inspection will consist of a walk-through inspection of the project site by the lead and support agencies. The pre-final inspection report will be used as a checklist by the RPM and the SPM, with the inspection focusing on the outstanding construction items identified in the pre-final inspection. The contractor's demobilization activities should be completed, except for equipment and materials required to complete outstanding construction items at the time of inspection. The SPM and RPM will confirm that all outstanding items have been resolved. If any items are still unresolved, the inspection shall be considered as another pre-final inspection requiring an additional pre-final inspection report prior to final inspection.

12. Remedial Action Report

Upon satisfactory completion of the final inspection, a RA report will be prepared and distributed by the lead agency within a 45 calendar day period.

The RA final report will include:

- . A brief description of previously outstanding construction items from the pre-final inspection(s) and an explanation of how the items were resolved.
- . A synopsis of the work defined in the RD documents and certification by the lead agency that this work was performed.

- . An explanation and accurate documentation of any modifications to work in the RD documents and why these were necessary for project construction.
- . Documentation that all final RD documents and completed RA activities complied with the legal and technical requirements of the ROD and the governing enforcement documents.
- . Certification that the remedy is operational and functional.
- . Documentation necessary to support deletion of the site from the NPL, if appropriate.

For a responsible party RA, the document of settlement may specify different final inspection/certification conditions.

13. Acceptance of the Completed Project

The RA final report will be reviewed by the RPM for a State lead RA and by the SPM for a Federal lead RA within 30 calendar days of receipt. If the RPM and the SPM are satisfied that the remedy is complete and functional, the USEPA Regional Administrator and IEPA Director shall be notified through appropriate channels such that they can provide written notice to the appropriate party(ies) of the governments' acceptance of the completed project.

After acceptance of the completed RA by IEPA and USEPA, site closeout activities need to be conducted for fund-financed or responsible party projects.

F. Deletion of Site from NPL

Either agency may recommend deletion of a site from the NPL after completion of a RA if USEPA, in consultation with the IEPA, has determined that all appropriate response actions have been completed and that no further remediation is appropriate and O&M has been guaranteed for both fund lead and enforcement lead sites.

The following procedures will be initiated based on a joint-agency deletion recommendation:

- . Upon completion of all response activities at a NPL site, as required by the site-specific ROD, USEPA will prepare the draft Notice of Intent to delete the site from the NPL. The Notice of Intent shall be prepared in conformance with USEPA guidance documents.
- . USEPA will provide the draft Notice of Intent to IEPA for initial comment prior to submission to USEPA-HQ for review.
- . IEPA will comment on the intent to delete within 21 calendar days of receipt of the draft Notice of Intent. If any outstanding issues remain, a meeting of appropriate respective Agency staffs shall be held to attempt to resolve these issues in a timely manner.

- Upon resolution of these issues to the satisfaction of both USEPA and IEPA, IEPA shall concur with the intent to delete within 14 calendar days.
- USEPA shall take all necessary procedural actions for site deletion, upon IEPA concurrence.

G. Operation and Maintenance (O&M)

In most instances, there is a requirement for some degree of regular operation and maintenance activity associated with the completed RA.

The date certified in the RA final report that the project is complete and the remedy is operational and functional, is the date when O&M commences.

For fund lead projects, this is generally the date the State assumes full responsibility for O&M. In certain cases specifically allowed by the NCP, IEPA may either amend the existing CA or develop a new CA to cover extended RA. This CA should be processed as soon as reliable cost estimates for extended RA activities are available early in the RA phase. For responsible party projects, this is the date the responsible party assumes O&M responsibility under the terms of the document of settlement or unilateral order.

1. Operation and Maintenance Report

At the completion of O&M activities relating to fund financed RAs or for an agreed interim period, IEPA-DLPC shall prepare and submit to USEPA-OSF an O&M report. This report will include the following elements:

- Description of O&M activities performed.
- Results of site monitoring, indicating that the remedy is meeting or has met the performance criteria.
- Explanation of additional O&M (including monitoring) to be undertaken at the site.

For responsible party O&M, the document of settlement may specify different O&M conditions and reporting requirements.

2. O&M Report Format

Section 300.435 of the NCP requires that the State shall provide all future O&M of RAs at fund-financed sites for the expected life of such actions. State assurance for O&M shall be part of either the Cooperative Agreement or the State Superfund Contract covering the remedial action for fund lead projects.

Therefore, when a RA requires O&M, the State shall include as a task as part of either the Cooperative Agreement or the State Superfund Contract, the development of an O&M plan which should at least contain the following elements:

- a. Designation of the organization unit of the state government responsible for O&M;
- b. Identification of the availability of state funding mechanisms for O&M activities;
- c. Milestone dates for assuming O&M responsibility;
- d. Description and duration ~~of~~ O&M activities;
- e. Summary of O&M staffing needs;
- f. Summary of O&M performance standards;
- g. Contingency plan for handling abnormal occurrences;
- h. Safety requirements for O&M activities;
- i. Equipment and material requirements;
- j. Estimates of annual O&M costs; and
- k. Description of site use and disposition of facilities during and following completion of O&M.

In addition, for fund-financed projects, the RA subagreement under the Cooperative Agreement or State Superfund Contract must include a provision that the construction contractor is responsible for project O&M start-up and for certifying that the designed remedy is functional and operational. The State assumes full O&M responsibility both operationally and financially. USEPA may, in certain limited cases outlined in the NCP (§ 300.435(f)(3)) for up to ten years, provide assistance to the State for extended RA at the same rate of cost share as for the RA. In such cases, the Cooperative Agreement covering the RA may be amended to remain in effect until the end of USEPA's support.

H. Removal Actions

The Removal Program is authorized by CERCLA for the purpose of performing response actions that are necessary to mitigate immediate risks to human health and/or the environment. Removal actions are performed by USEPA, or IEPA and their contractors, with federal funds when the applicable criteria are met and there are no responsible parties willing and able to mitigate the emergency.

Region V receives a fixed budget each year for the purpose of performing removal actions. These monies are committed to the most critical actions that are identified. Priorities are readjusted upon receipt of each request to ensure that the most critical actions receive priority attention. The priorities are developed by the Region on the basis of USEPA Headquarters policy, guidance, directives, and regulations. No specific amount is set aside for each state; rather the expenditures are based upon the number and type of requests received.

To request a Federally funded Removal Action for a classified transportation release or fixed facility involving conditions of fire, explosion, or extreme threat to human health and/or the environment, a verbal request to the Chief, Emergency and Enforcement Response Branch, will be sufficient. Verbal request after normal business hours will be made through the USEPA, Region V's 24-hour emergency number (312 353-2318). Verbal requests will be followed within 10 work days with written documentation summarizing the verbal request. The USEPA will promptly review such requests and respond in writing to IEPA within 10 work days. USEPA will notify IEPA at least 21 days in advance of any removal action start or mobilization where practicable.

IV. ENFORCEMENT ACTIVITIES

A. Preamble

This portion of the SMOA will be used as guidance in developing case management strategies. Case management strategies are intended to assure that the decision making process for CERCLA investigation/remediation projects is consistent at every site and that the resultant CERCLA remedial strategies are consistent with CERCLA/SARA mandates, the NCP, applicable Federal and state environmental laws and other ARARs. This document will help to assure that consistent procedures for document review, comment and approval are followed and to assure that there is coordination between privately funded and publicly funded activities at NPL sites. This document does not delegate CERCLA enforcement authorities to IEPA.

B. Enforcement Principles

1. Role of Enforcement in Superfund Program: The parties agree that aggressive enforcement is an essential component of a successful Superfund response at NPL sites.
2. Enforcement Priority: The parties agree that, before public funds are used to undertake response actions at NPL sites, qualified responsible parties ("RPs" or "PRPs") should be afforded the opportunity or, when appropriate, ordered to undertake NPL site response actions first.
3. Formal Enforcement Required: The parties agree that response action commitments or settlements reached with RPs will be set forth in enforceable documents. An enforceable document includes an administrative order issued unilaterally or on consent, or the order of an appropriate state or federal court entered by a judge or on consent, or other state enforceable document.
4. Need for Expedited Enforcement Actions: The parties agree that an effective site remedial program depends upon a well coordinated, efficient and expedited enforcement effort against RPs.
5. Single Agency Enforcement: Any two party settlement agreement is entered into with the objectives that the agency which is not signatory to the agreement has or will be fully included in the development of the study and will concur with the selected remedy through the ROD process. The parties agree to implement this type of agreement in a manner which recognizes that enforcement carried out entirely by USEPA or IEPA is likely to be less resource intensive overall, but in the event that both the State and the USEPA enforce together they will use their best efforts to closely coordinate and cooperate.
6. Under any three-party settlement agreement or decree, or any unilateral order where USEPA is a signatory, USEPA is the lead enforcement agency.

7. Encouraging RPs to Conduct RI/FSs: CERCLA 104(b) and 122(a) provide the opportunity for RPs to conduct the RI/FS at a site. The parties agree to invite early and active participation of the RPs to conduct the RI/FS pursuant to the NCP as an effective means of encouraging RPs to implement the subsequent remedy at the site. The parties further agree that any agreement reached with RPs to carry out an RI/FS should be set forth in an enforceable administrative or court order.

C. Enforcement Activities

1. Program Descriptions

The goal of this portion of the SMOA is to ensure that NPL sites that are contaminated with hazardous substances are investigated and remediated by the responsible party(s), thereby minimizing the expenditure of public funds on these sites. During enforcement activities the lead enforcement agency:

- a. Negotiates enforcement agreements, with support agency participation, with RPs for investigation and remediation of sites.
- b. Initiates enforcement actions, with support agency participation, through referrals to the Attorney General's Office or Office of Regional Counsel and the Department of Justice against responsible parties who fail to enter into consent agreements with IEPA and/or USEPA or who fail to maintain compliance with executed agreements.
- c. Provides interdepartmental and interagency coordination by acting as the contact point to receive information from the responsible party and disseminate that information to the appropriate Agency personnel.
- d. Coordinates and tracks review comments on responsible party submittals and communicates the IEPA's and USEPA's comments to the responsible party.
- e. Oversees and tracks responsible party compliance with the executed enforcement agreement.
- f. Maintains project file, copying the support agency on significant documents.
- g. Where USEPA is the lead agency for enforcement purposes, IEPA may, through a CA or consent agreement, assume a technical lead role and hire and direct a third-party contractor to perform oversight functions, not inconsistent with the terms of the governing enforcement document. In a technical lead role, IEPA would be responsible for activities outlined in items C.1.c., d., and f. of this section.

2. Pre-Enforcement Activities

a. Enforcement Planning Activities

Superfund Comprehensive Accomplishments Plan (SCAP) for Enforcement Activities. In the annual meeting, USEPA and IEPA agree to review enforcement activities to be conducted at NPL sites by each agency in the State of Illinois for that year. The enforcement activities which will be reviewed for the SCAP will include:

- (1) PRP searches;
- (2) Notice letters;
- (3) Special Notice letters;
- (4) Information requests;
- (5) Oversight of PRP response actions;
- (6) Preparation of cost recovery documentation;
- (7) Community Relations Plans;
- (8) Settlement negotiations; and
- (9) Litigation and litigation support

- b. USEPA and IEPA agree to coordinate planning the enforcement activities portion of the SCAP according to the same procedures set forth for the coordination of remedial activities planning in this document.

3. Designation of Lead/Support Agency for Enforcement Activities

- a. USEPA and IEPA will review and designate the lead and support roles to be carried out by each agency at each site during the review of the draft promulgation to propose the site for the NPL. There may be a separate determination made at that time for an "enforcement lead" and "technical lead" agency. A designation of "State Enforcement Lead" (CERCLIS code normally "PS") contemplates a two-party consent agreement between IEPA and the PRPs, or unilateral action against the PRPs by the State of Illinois. Nothing precludes one agency from being designated the lead for enforcement and the other agency being designated technical lead for remedial activities at the same site under the appropriate circumstances.
- b. The agency identifying the potential addition of a site to the NPL shall initiate the lead and support agency designation process.

- c. Each lead agency designation will be reviewed at least two (2) times in the Superfund response process: first, before the start of a remedial investigation and feasibility study (RI/FS) and second, after the selection of the remedy but prior to the start of the RD. In addition, the lead agency designation may be changed at any time during the life of the project at the initiation of either agency and upon the agreement of both.
- d. Designation of Project Manager for the Lead Agency and Support Agency. The USEPA will designate a RPM for each NPL site and the IEPA will designate a SPM at the same time that the lead and support Agency determinations are made. Similarly, a lead Agency and support Agency attorney will be designated to coordinate legal activities according to project needs.

V. FEDERAL FACILITIES

From a regulatory perspective Federal facilities can be grouped into one of two categories; NPL or Non-NPL. The Hazard Ranking System (HRS) score determines the category. SARA mandates that the USEPA establish a Federal Agency Hazardous Waste Compliance Docket (the "Docket") and takes steps to assure that a Preliminary Assessment (PA) is conducted for each of the facilities on the Docket. Based on the PA (and any other available information) it is the USEPA's further responsibility to evaluate these facilities using the HRS and to include facilities on the NPL, if applicable. The NPL status of a facility will be a key factor in determining the lead regulatory agency. The determination of lead agency is discussed in this SMOA (Section II.A. and IV.C.3.). Agency roles are described below.

A. NPL Sites

Each Federal agency and USEPA will have the roles specified in Executive Order 12580. IEPA-DLPC foresees development of a significant role for itself in the Federal facilities program. Therefore, IEPA-DLPC and USEPA-OSF roles and responsibilities will be discussed and mutually agreed to on a site by site basis to minimize duplication of remedial efforts between agencies.

USEPA-OSF will seek IEPA-DLPC's participation from RI/FS through site deletion. Pursuant to CERCLA Section 120(f), USEPA-OSF shall afford IEPA-DLPC opportunity to participate in the planning and selection of the remedial action. As with enforcement sites, IEPA-DLPC will be given the opportunity to be included in all agreements, document reviews, and oversight activities. USEPA-OSF will supply IEPA-DLPC with all appropriate Federal facility guidance as received.

USEPA policy calls for Interagency Agreements (IAGs) to generally be three-party agreements. Therefore, IEPA-DLPC will be encouraged to sign on all IAGs. The IAG will include specific state roles in the process. Where discrepancies exist between this SMOA and site specific IAGs, the provisions of the IAG will be adhered to.

IEPA-DLPC understands that SARA amends Title 10, U.S.C. Chapter 160, to provide for the establishment of Technical Review Committees (TRCs) at DOD facilities. It is the responsibility of DOD to establish TRCs, and both USEPA-OSF and IEPA-DLPC participation is essential. For sites where a signed IAG is in place, TRC activities will supplement the review and comment process established in the IAG.

1. USEPA Role

a. Point of contact between the facility and support agency(ies):

- (1) Coordinate scheduling of meetings between Federal facility and support agencies;

- (2) Coordinate the distribution of documents for review and comment; and
 - (3) Compile and transmit comments from support agencies to the Federal Facility.
- b. Responsible for direct oversight role for response actions:
 - (1) Provide field oversight if required; and
 - (2) Provide QA/QC review of data.
- c. Responsible for drafting and negotiating an Enforcement Agreement (Interagency Agreement (IAG) or Administrative Consent Order (ACO)) with the facility.
- d. Signatory to or letter of concurrence on ROD.
- e. Participant on the Technical Review Committee

2. IEPA Role

- a. Supply State ARARs to USEPA.
- b. Provide document review and comments to USEPA.
- c. Signatory to the Enforcement Agreement.
- d. Provide letter of concurrence on the ROD.
- e. Participant on the Technical Review Committee.

The document review/comment process undertaken in Federal facility cases is to be the same as that described within the RI/FS and RD/RA activities sections for fund-financed sites. Procedures and timetables will be identical except for sections describing the ROD process. Executive Order 12580 delegates the authority for selection of the remedy, establishing the administrative record, public participation and Proposed Plan development and modification to the affected Federal facility. In those cases where executive order 12580 applies, the appropriate procedures will be modified. The procedures to be followed must be stipulated within the IAG/ACO that is negotiated with the facility.

B. Post-Remedial Reporting

USEPA-OSF and IEPA-DLPC shall work cooperatively to ensure the RD/RA and O&M work has been carried out consistent with USEPA/IEPA guidelines, as stipulated in the Record of Decision. Copies of the RA pre-final and final reports submitted shall be made available by the lead agency to the support agency for review and comment.

C. NPL-Deletion

USEPA-OSF shall afford IEPA-DLPC the opportunity to review and comment on facilities to be deleted from the NPL as discussed in section III-F within this document for fund-financed sites.

D. Community Relations

USEPA-OSF and IEPA-DLPC shall encourage Federal facilities to be involved in community relations activities at their NPL facilities. Community relations are the responsibility of the lead agency (the Federal agency) and should generally follow established USEPA community relations guidance and procedures. IEPA's Community Relations Program will assist if necessary.

VI. SUPERFUND COMPREHENSIVE ACCOMPLISHMENTS PLAN (SCAP)

A. SCAP Overview

Superfund planning and funding activities in USEPA Region V are currently governed primarily by the USEPA SCAP. The development of the SCAP is, therefore, a critical Superfund planning process requiring coordination and negotiation with the State.

B. SCAP Negotiations

An annual meeting will be held during the second quarter of each federal fiscal year to begin SCAP negotiations for the upcoming federal year. USEPA-OSF and IEPA-DLPC will confer and reach tentative agreement on schedules and funding levels for sites that will be incorporated into Region V's annual target negotiations with Headquarters. To the maximum extent practicable, final decisions by USEPA on schedules and funding levels will not be made without consultation with IEPA-DLPC. USEPA-DLPC will provide an opportunity for the State to participate in the SCAP quarterly update process by discussing the SCAP updates at the regular USEPA/IEPA quarterly meetings or conference calls. However, anticipated SCAP changes during any quarter will be promptly communicated to IEPA-DLPC as USEPA-OSF becomes aware of them. At the conclusion of Regional and Headquarters negotiations, commitments for site accomplishments will be established for the upcoming fiscal year.

USEPA-OSF and IEPA-DLPC SCAP negotiations will address the following activities:

1. The preliminary assessments, site investigations, listing site inspections, site investigation follow-ups (PAs/ESIs/SIs) to be conducted in the state during the fiscal year, and the lead agency for each site;
2. The RI/FSs to be initiated during the fiscal year, and the lead agency for each site;
3. The RD/RAs to be conducted during the fiscal year, and the lead agency for each site;
4. The enforcement actions to be conducted during the fiscal year, and the lead agency for technical and enforcement activities for each site. Enforcement actions include PRP searches, notice letters, Section 104(e) information requests, Section 122 special notices (or the State's equivalent if the State is the lead agency); RI/FS and/or RD/RA settlement negotiations and litigation.

VII. ADMINISTRATIVE RECORD

Both parties agree that the lead agency is responsible for compiling and maintaining the administrative record for a specific site both at the lead agency's central office and in the established location near the site. Each party will name the respective staff members responsible for compiling and maintaining site-specific administrative records. Both parties agree to follow USEPA guidance governing administrative records.

A. State Involvement on Federal-Lead Sites

The administrative record for a Federal-lead site will reflect IEPA involvement in the selection of a remedial action. The record for a RA should reflect at least the following IEPA involvement:

1. Opportunity to comment on all draft work plan documents;
2. Letter to IEPA requesting identification of ARARs at various project intervals;
3. Opportunity to comment on the draft RI report;
4. Final response from IEPA identifying ARARs (and certification from IEPA);
5. Opportunity to comment on a proposed finding to select a remedial action not attaining a level or standard of control at least equivalent to legally applicable or relevant and appropriate standards, requirements, criteria, or limits (as mandated by / 121(d)(4) of CERCLA);
6. Opportunity to comment on the final draft FS report;
7. Opportunity to comment on the draft Proposed Plan;
8. Opportunity to have input to the Responsiveness Summary;
9. Opportunity to comment on the draft ROD;
10. Final concurrence or non-concurrence on the final ROD; and
11. State comments are appropriate, excluding deliberations.

The administrative record for a removal action should similarly reflect any IEPA participation at appropriate stages.

The record file should only include final IEPA comments. Any preliminary, internal deliberation between the IEPA and USEPA need not be part of the record file if final documentation is included in the record file. USEPA will provide a draft index of the administrative record to IEPA for comment before release to the public.

B. Federal Involvement on State-Lead Sites

IEPA will comply with Section 113 of CERCLA. IEPA will compile and maintain the administrative record upon which the selection of remedial or removal actions are based. The compilation and maintenance of the record will be, to the extent practicable, in an organized fashion in accordance with USEPA guidance on the administrative record. The administrative record will be located at the IEPA central office, and also in a convenient location near the site. IEPA will submit copies of the index, the RI/FS work plans, the RI/FS released for public comment, the Proposed Plan, and any public comments received on the RI/FS and Proposed Plan to Region V, as they are added to the administrative record file. In addition, other documents may be requested by USEPA on a case-by-case basis. IEPA will provide a second copy of the administrative record suitable for release to the public. In addition, USEPA may require the submission of other administrative documents for fund cost recovery purposes. One complete copy of the Administrative Record must be kept in the Region V office.

The IEPA compiled record will reflect Region V's participation through comments and concurrence, or nonconcurrence at the same stages as required for State involvement in a federal lead site. IEPA will place in the record file all final documents submitted by Region V.

The following final documents are potential items for inclusion in an administrative record:

- a. Preliminary Assessment Report;
- b. Site Investigation Report;
- c. Community Relations Plan;
- d. Any relevant removal documents (if removal action was completed or is ongoing at the site);
- e. Initial work plan and any amendments thereto;
- f. QA/QC'd raw data (including test results and sampling data) (Public Repository may only contain data summaries with reference to Agency files);
- g. Data summary sheets (usually part of the RI);
- h. Chain-of-custody forms (these will be indexed and the actual documents kept in a centralized compendium);
- i. Raw data (these will be indexed and the actual documents kept in a centralized compendium);
- j. Site Safety Plan;

- k. Quality Assurance Project Plan (QAPP);
 - l. Endangerment Assessment or other public health assessment;
 - m. Final ATSDR/IDPH Health Assessment (draft versions not included);
 - n. RI/FS (final deliverable released for public comment);
 - o. Final Proposed Plan;
 - p. Any other factual data relating to reasons for selecting the remedial action at the site;
 - q. Memoranda on site-specific major policy and legal interpretations, e.g., off-site disposal availability;
 - r. Guidance documents and technical sources included (by reference);*
 - s. Copies of any notices, including notices to PRPs, Agencies, Natural Resources Trustees, notices of availability of information;
 - t. Public comments (including a late comments section);
 - u. Documentation of meetings during which the public and PRPs presented information upon which the agency based its decision on selection of a remedial action (may be after-the-fact restatement of issues raised);
 - v. Responses to substantive comments received during the RI/FS public comment period or any submittal prior to that time (Responsiveness Summary);
 - w. New technical information presented by the public or RPs after RI/FS completion;
 - x. Transcripts of required meeting(s) on the RI/FS and Proposed Plan;
 - y. Final ROD; and
 - z. Any other appropriate information.
- * Guidance documents and technical sources may be kept in a central compendium by the docket clerk. They need not be in each site-specific record. The index to the record should reference titles of relevant guidance documents and technical sources.

IEPA will provide certification for completeness of the administrative record at the time such administrative record is presented in an enforcement referral action to USEPA. IEPA will also provide draft indexes to USEPA for comment before the Administrative Record is released to the public.

VIII. COMMUNITY RELATIONS AND TECHNICAL ASSISTANCE GRANTS

A direct complement to the technical side of Superfund is the community relations program. It is a vital component; establishing two-way communications with local communities primarily for transmitting information and explaining Superfund activities to concerned citizens and local officials. Informing the public about hazardous waste remedial activities requires careful coordination between IEPA and USEPA Region V. It is critical that the communication between the two groups always be clear and direct and that they strive always to speak from a unified position.

During each phase of the Superfund process, the Community Relations staff at IEPA and USEPA are likely to come in contact with residents, citizens, local officials and the media with a wide variety of interests. Since Superfund and related hazardous waste issues are of great importance to the citizens of Illinois, the IEPA may, at times, need to take a prominent role in community relations regardless of the site lead designation. Such activities would be coordinated with USEPA's Community Relations office and other program staff. When necessary, the IEPA Community Relations Office can use its contacts with officials and community leaders in the affected localities to assist in a coordinated USEPA/IEPA effort. The lead agency project manager and community relations coordinator will notify the support agency in a timely manner of all significant community relations activities and related issues.

Both agencies will follow community relations policy and procedures in CERCLA, as amended by SARA, the NCP, the Superfund Community Relations Handbook and other written EPA guidance documents. The preparation of press releases and contact with the media will be the responsibility of the lead agency. All press releases will be coordinated in advance and issued in consultation with the support agency. Only occasionally would the support agency need to issue a press release. Press releases will acknowledge the support agency's role whenever appropriate.

The lead agency will chair all public meetings and the RI/FS public hearing. The support agency should send a representative to the meeting to observe and participate as appropriate.

The Technical Assistance Grant (TAG) program under SARA will be administered by USEPA, Region V at all Superfund sites, regardless of the lead. USEPA however, agrees to keep IEPA fully informed on program applications and grants at Illinois sites.

IX. COOPERATIVE AGREEMENT AND CONTRACT MANAGEMENT GENERAL POLICY

A. CA Applications

IEPA-DLPC will provide USEPA-OSF with a list of sites projected to require CA application and CA amendments in the upcoming federal fiscal year in accordance with SCAP discussions between the agencies. The preparation and submittal of CA applications and amendments will be the responsibility of the IEPA-DLPC.

The IEPA-DLPC will submit draft CA applications beginning at any new sites and for State-Lead RA's within 30 calendar days of the beginning of the quarter. USEPA-OSF will review and comment on the draft CA within 30 calendar days of receipt. The IEPA-DLPC will submit the final CA within 30 work days of receipt of USEPA-OSF's comments.

1. Core Program Cooperative Agreement

The Core Program Cooperative Agreement (CPCA) will be reviewed and revised by IEPA-DLPC and USEPA on an annual or more frequent basis. The IEPA-DLPC will submit a draft application by August 15 or 60 calendar days before the end of the current budget period. USEPA-OSF will review and comment on the draft application within 15 work days of receipt. The IEPA-DLPC will submit the final application within 15 work days of receipt of USEPA-OSF's comments.

2. Pre-Remedial Cooperative Agreement (PA/SI)

USEPA-OSF will provide final guidance on the activities to be conducted under the grant for the upcoming fiscal year. IEPA-DLPC will submit a draft work plan to USEPA within 60 calendar days of receipt of final guidance. USEPA-OSF will provide comments within 15 work days of receipt of the draft work plan. IEPA-DLPC will respond to comments and submit a final work plan within 15 work days from receipt of USEPA-OSF's comments or September 1, whichever is later.

B. Consultant/Contractor Procurement

The IEPA will continue to comply with the applicable provisions found in either 40 CFR Part 33 or Part 35. If IEPA-DLPC has administrative procurement questions regarding regulation interpretations, IEPA-DLPC will seek USEPA-OSF recommendations through the Region V Project Officer regarding the proper course of action.

C. Contract Change Orders

Change Orders will be approved by USEPA, as understood by IEPA, as follows:

- For RI/FS and RD change orders; USEPA approval will be required only if the change order requires an increase in the funding level of the CA, or if the change order requires revision to the SOW.

- For RA change orders greater than \$50,000, USEPA approval will be required.

D. Intergovernmental Review

IEPA-DLPC will meet the requirements of intergovernmental review. The IEPA-DLPC will submit to USEPA-OSF a copy of the approval letter which identifies the State Application Identifier (SAI) number assigned to the CA.

If a negative review is received, IEPA-DLPC will attempt to resolve the comment(s). If the comments require revision to the application USEPA will attempt to reprocess the application within 30 days of receipt of the revised application.

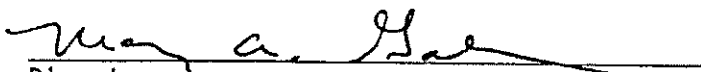
E. Superfund State Contracts (SSC) Procedures

- USEPA-OSF and IEPA-DLPC shall develop a standard SSC to be used for all future new site-specific SSCs and amendments.
- Prior to funding a federal lead Remedial Action at a site, a SSC must be executed and in-place. USEPA-OSF will prepare a draft SSC which will include that activity in detail and its respective funding. This SSC will also mention any potential future activities, which will be the subject of future amendments.
 - No increases to RA funding may occur without amendment to the SSC. When increased funds are anticipated USEPA-OSF will notify the IEPA-DLPC of the need for the increase and will draft an amendment within 10 work days and submit it to the IEPA-DLPC for comment. The remaining activities will follow the steps outlined below for SSC concurrence (steps D through G).
- USEPA-OSF will submit the draft SSC (or amendment) to the IEPA-DLPC for comment.
- The IEPA-DLPC shall review the SSC and provide comment to USEPA-OSF within 10 work days.
- USEPA-OSF shall incorporate the IEPA-DLPC's comments into the SSC. Should any issues be raised by the IEPA-DLPC that require further clarification, USEPA-OSF shall consult with the IEPA-DLPC and resolve these issues within 10 work days of receipt of the comments.
- Within 15 work days of receipt of the IEPA-DLPC's comments or resolution of any outstanding issues, USEPA-OSF will prepare a final SSC for the Regional Administrator's signature. Two copies of the Regional Administrator's signed SSC shall be submitted to the IEPA Director.
- The IEPA Director shall sign the two copies of the SSC, retain one and return one signed copy to USEPA, within 15 work days of receipt.
- Funding of SSC's is subject to funding changes outside the parties control.

X. CONFIDENTIAL DOCUMENTS

- A. At USEPA-OSF's request, and to the extent allowed by State law, the IEPA-DLPC shall make available to USEPA any information in its possession necessary to implement this Agreement, with the exception of deliberative or policy documents that the IEPA-DLPC would not otherwise be required to disclose. At the IEPA-DLPC's request and to the extent allowed by Federal law, USEPA-OSF shall make available to the IEPA-DLPC any information in its possession necessary to implement this agreement, with the exception of deliberative or policy documents that USEPA-OSF would not otherwise be required to disclose.
- B. If any information is provided to USEPA-OSF by the IEPA-DLPC under a claim of confidentiality, it will be treated in accordance with 40 CFR 2 if the IEPA-DLPC has given USEPA-OSF notice of the claim of confidentiality. If any information is provided to USEPA-OSF under a claim of confidentiality, it shall be returned to IEPA-DLPC if USEPA-OSF believes Federal law threatens such confidentiality. The USEPA-OSF shall not disclose any information submitted by IEPA-DLPC under a claim of confidentiality without the approval of IEPA-DLPC.
- C. If any information is provided to the IEPA-DLPC by USEPA-OSF under a claim of confidentiality, it shall be returned to USEPA-OSF if IEPA-DLPC believes State law threatens such confidentiality. The IEPA-DLPC shall not disclose any information submitted by USEPA-OSF under a claim of confidentiality without the approval of USEPA-OSF.
- D. Any information that may potentially affect present or planned enforcement actions of investigations shall not be released to the public unless approved by USEPA Region V, Office of Regional Counsel, or the IEPA and the Office of the Illinois Attorney General.
- E. In order to protect attorney/client privileges, documents prepared in anticipation of litigation will not be exchanged if such exchange might jeopardize those privileges. In such cases, when USEPA or the State do not intend to share such documents, they will inform the other party of such decisions and their rationale.

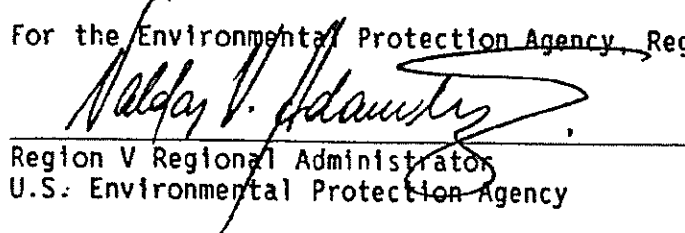
For the Illinois Environmental Protection Agency



Director

Illinois Environmental Protection Agency

For the Environmental Protection Agency, Region V



Region V Regional Administrator
U.S. Environmental Protection Agency

12/18/91

Date

TA:jk/sp/473q

ADDENDUM NO. 1

SUPERFUND MEMORANDUM OF AGREEMENT
BETWEEN THE
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY
AND THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION V

I. BACKGROUND

The Illinois Environmental Protection Agency ("IEPA") and the United States Environmental Protection Agency, Region V ("Region V") entered a Superfund Memorandum of Agreement (SMOA) effective December 18, 1991. Among other things, the SMOA established operating procedures for general Superfund program coordination and communication between IEPA and Region V.

II. BROWNFIELDS

In 1993 IEPA and Region V began developing strategies to promote the remediation and redevelopment of "Brownfield" sites. Both agencies recognize that a key factor to the Brownfields program in Illinois is for both agencies to exercise their authorities and use their resources in ways that are mutually complementary and are not duplicative. Two operational factors are important in this regard. First, the IEPA has successfully operated a voluntary cleanup since the late 1980s. This program, more formally known as the Pre-Notice Site Cleanup Program ("PNSCP"), provides guidance, assistance and oversight by IEPA to owners and operators of sites in Illinois who perform site assessment and remediation in accordance with the practices, and under the approval, of the IEPA. In addition IEPA has established a consistent cleanup objectives process across all its remediation programs (PWSCP, CERCLA, RCRA, and LUST) which is protective of human health and the environment. Second, USEPA has administered a national site assessment program to assess sites listed on the federal CERCLIS list. This assessment process identifies and prioritizes sites for remediation needs and also establishes a "no further remedial action planned" or NFRAP category of sites. As a result of the success of these two programs, IEPA and Region V have concluded that the principles and procedures set forth in this Addendum will meaningfully assist in the remediation and development of Brownfield sites.

III. PRINCIPLES

If a site in Illinois has been remediated or investigated under the practices and procedures of the Illinois PNSCP and IEPA has approved the remediation as complete or made a no-action determination upon review of an investigation, consistent with existing information the site will not be expected to require further response actions. Accordingly, Region 5 will not plan or anticipate any federal action under Superfund law unless, in exceptional circumstances, the site poses an imminent threat or emergency situation. Region 5 will also continue to work with Illinois to remove any concerns about federal activity under Superfund so as to encourage appropriate redevelopment.

This Principle does not apply to sites which have been listed on the National Priorities List or sites subject to an order or other enforcement action under Superfund law or sites imminently threatening public health or the environment. Future IEPA activities at the site will be based on the conditions of the remediation approval and whether any imminent threat subsequently arises.

IV. REPORTING

On an annual basis IEPA will report to Region V on the Following:

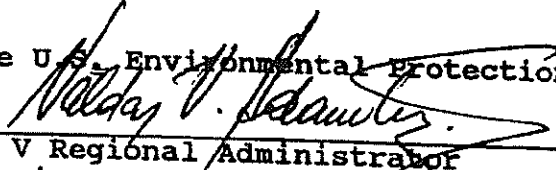
- 1) number of sites in the PNSCP;
- 2) sites entering the PNSCP the previous year;
- 3) sites having received approvals by IEPA of full or partial completions in the previous year;

For the Illinois Environmental Protection Agency



Director, Illinois Environmental Protection Agency

For the U.S. Environmental Protection Agency, Region V



Region V Regional Administrator
U.S. Environmental Protection Agency

Date

4/06/95